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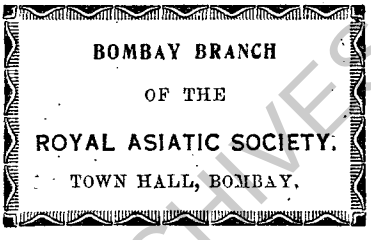


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*Published under the auspices of the Indian States' Peoples' Conference ( Bombay ).*

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# MEMORANDUM

OF

# THE INDIAN STATES' PEOPLE,

**( With four Supplements, Correspondence with the Butler Committee and Appendices ).**

PRINTED AT THE 'ARYA-BHUSHAN' PRESS, POONA CITY BY ANANT VINAYAK PATVARDHAN AND PUBLISHED BY PROF. GANESH R. ABHYANKAR, GENERAL SECRETARY, INDIAN STATES' PEOPLES' CONFERENCE AT THE OFFICE OF THE CONFERENCE, ASHOKA BUILDINGS, PRINCESS STEET, BOMBAY.

**1928 •**

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**Price Rs. 10 •**

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# MEMORANDUM

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## The Announcement.

A communique of the Government of India was published in Bombay on 18th December 1927. It stated....." It has been decided by the Secretary of State to appoint a Committee to report on the relationship between the Paramount Power and the Indian States with particular reference to the rights and obligations arising from Treaties, Engagements, Sanads and usage, sufferance and other causes and secondly to inquire into the financial and economic relations between British India and the States and to make any recommendations that they may consider desirable or necessary for their more satisfactory adjustment. The Committee will be composed as follows :—Chairman, His Excellency Sir Harcourt Butler, Governor of Burma. Members :— The Hon'ble Sidney Peel and W. S. Holdsworth, K. C., Vinerian Professor in English Law."

## The genesis of this Committee.

It is necessary to know that in January 1926 the question as to how the reforms in British India would affect the Indian States was considered at the Session of the Chamber of Princes and a Committee was appointed consisting of the Maharajas of Bikaner, Patiala, Navanagar and Alwar and of Colonel Haksar from Gwalior, Sir Manubhai Mehta from Baroda, Mr. Balasundaram from Mysore and Dr. Rushbrook Williams, the Foreign Minister of Patiala. This Committee considered this question. In the Session of the Chamber of Princes held in November 1926 a resolution was passed authorising the Standing Committee of the Chamber to discuss this question with His Excellency the Viceroy. A gathering of Indian Princes was held in Bikaner about Christmas where consultations took place about this question. Similar gatherings followed at Patiala in March. They were held for the purpose of developing the position formerly taken by the Chamber's resolution. At the beginning of May 1927 a Conference was held in Simla attended by their Highnesses, the Maharajas of Bikaner, Patiala,

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Kashmir, Jamnagar and Rewa and the Nawab of Bhopal. Baroda, Mysore, Gwalior and Bhavnagar had sent their representatives. There were informal Round Table Conferences with His Excellency the Viceroy in regard to the position of the Princes in relation to various questions that have long been under discussion between some of them and the Government of India. It was also reported that a sub-Committee consisting of Sir Alexander Muddiman, Sir Basil Blackett, Hon. Mr. S. R. Das and Sir John Thompson was working on the position of the Indian States and that it was to talk matters over informally with the representatives of the Chamber of Princes. At the end of May 1927 a deputation of the Indian Princes consisting of Col. Haksar and Dr. Williams of Patiala went to England to prepare the case for the Princes. They also tried to awaken English puplic opinion there. The Viceroy held a conference of Political Officers at Simla in July of same year. It will thus be apparent that informal Conferences were going on between the representatives of the Indian Princes and the members of the Government of India and His Excellency the Viceroy. The Viceroy seems to have consulted also the important political officers who are directly connected with the Indian States. There are four parties who are intimately associated with this problem of Indian States. They are the Government of India including the Officers of the Political Department, the Indian Princes, the people of Indian States and the people of British India. Any inquiry which was to be of a thorough character required consultation with the representatives of these four interests. It, however, appears that the Viceroy was not pleased to hold informal conversations with the representatives of British India or with the leaders of public opinion in the Indian States about this question.

After the announcement the Maharaja of Patiala as Chancellor of the Chamber of Princes sent a telegram to His Excellency the Viceroy in these terms: "I should like to convey to Your Excellency and through Your Excellency to His Majesty's Government my thanks for the announcement of this Committee made at Rajkot. The acceptance of the proposal put forward at Simla will be gratefully received by all Princes." This Simla proposal made by the Indian Princes for the appointment of such a Committee is not however made public and the Committee declined to supply any information about this when specifically requested to do so.

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## Inquiry not public.

After the Committee assembled in India inquiries were made to ascertain whether the Committee was public, if any questionnaire about this was to be issued to public bodies and private individuals to give evidence before this Committee and to submit their say. The Committee replied: "The inquiry by the Indian States Committee will not be public in the sense that the public will not be admitted to its deliberations. The Committee is not empowered by its terms of reference to deal with the relations between the Indian States and their subjects and they are, therefore, not in a position to accept the evidence of public bodies and private individuals either written or oral in regard to this subject." A protest was, however, entered to say that the view of the Committee excluding public bodies and private individuals from this inquiry under the terms of reference was not proper and that as the terms of inquiry included the relationship between the Paramount Power and the Indian States, and as States included both Princes and people of these States the people of the Indian States had every right to state their views in so far as they were relevant to the terms of reference of this Committee. After this the Committee was pleased to reply that they were prepared to consider any views placed before them bearing upon the terms of reference on behalf of the people of Indian States. They, however, regretted that they were unable to give an oral hearing owing to numerous applications asking for oral hearing. The Committee issued a questionaire but it was not published for the information of the people of Indian States. As regards both the terms of reference the people of Indian States were vitally concerned and they ought to have been supplied with the questionnaire since they are affected by the policies of the British Indian Government in matters of joint concern such as Customs, Commercial Services, Monopolies of Salt, Exchange, Opium and Excise. They were contributing to the British Indian Exchequer by a process of indirect taxation and in the economical adjustment between the Indian States and British India the people of the Indian States had every stake.

The Committee while in India toured through the country but did not hear what the people of the States had to say about the terms of reference. No attempt seems to have been made to understand their viewpoint. The proceedings were held in

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camera, the material collected before the Committee and the information elicited by the Committee are not available to the public. The procedure, therefore, adopted by the Committee has caused considerable disappointment to the public of the States.

**The personnel.**

Of the Committee it did not include any member of the Princely Order or any one representing British Indian people or any representative of the people of the States. From an interview of Col. Haksar it is evident that in the original proposal of the Indian Princes for the appointment of such a Committee the Princes had asked that the personnel of this Committee should consist of (1) an experienced administrator from an Indian State, (2) an economist and financier of repute commanding the confidence of Indian States, (3) a representative of the Government of India (4) a representative of the Assembly (5) a non-official financier from British India. It is, therefore, obvious that even the Princes did not get the Committee for which they asked. There was no representative of the Assembly, no experienced administrator from any Indian State, no economist and financier of repute commanding the confidence of the Indian State and no non-official financier from British India. Neither the Government nor the Indian Princes desired to include a representative of the people of the Indian States on this Committee and none has been so included. It would not be out of place to state that as the relations of Indian States are to be regulated in view of the future development in British India the addition of a statesman conversant with dominion constitutional practice would have been of immense use. The people of Indian States, however,bitterly complain that a representative of theirs fully alive to their difficulties and their welfare has not been included in this Committee as its ultimate conclusions so far as the terms of reference are concerned are bound to affect their interests.

**The terms of reference.**

They are narrow and are not sufficiently explicit. The relations between the Indian States and the Paramount Power are not only based on Treaties, Engagements, Sanads, usages and sufferance and other causes but they exist independently of them and are clearly discernible in the political practice followed in regard to these States.

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The first term of reference assumes that the paramountcy of the British Government is admitted as a fact by all the Rulers; but it is necessary to note that this position was contested by the Ex-Maharaja of Indore in a letter which he addressed to the Government of India through the Central Indian Agency on 16th December 1919 in connection with the recommendations made in Chapter X of the Montagu Chelmsford Report. He has asserted therein his position as an independent ally of British Government and having absolutely nothing to do with the Government of India under the superintendence, direction and control of the Governor-Ceneral. The announcement to appoint a commission to inquire into the conduct of the Ex-Ruler of Indore in connection with the Bawla murder case has removed all doubts about the dependent position of the Ruler of Indore as a feudatory subordinate to the Government of India exercising the Paramount Power and entitled to hold such an inquiry. The trial of Malhar Rao Gaekwar proved beyond doubt "that the jurisdiction of the Paramount Power to inquire into and punish the misconduct of the feudatories was formally recognised and admitted by Chiefs themselves" (Thorton's Life of Meade, pp. 205). His Exalted Highness the Nizam asserted a claim to international status in his letter dated 20th September 1925 as regards the internal affairs of the State. Lord Reading has emphatically stated in his reply dated 27th March 1926 that the title "Faithful Ally" which His Exalted Highness enjoys has not the effect of putting the Nizam's Government in a category separate from that of other States under the Paramountcy of the British Crown. By the subsidiary system, by the position of subordinate isolation, by the transfer of the Government of India to the Crown, by the policy of subordinate co-operation, by the assumption of the Royal Title of Emperor of India, and by the passing of the interpretation Act of 1889 the suzerainty of the British Government has been established beyond a shadow of doubt and the Indian States have been described as "territories of any Native Prince or Chief under the suzerainty of His Majesty exercised through the Governor-General of India" (Ilbert pp. 263).

The duties of a feudatory are also well understood. "The feudatory States or their Rulers can be and are punished when occasion requires, by fine, by the deprivation of the salutes and other honours, by sequestration for a time, by the diminution of

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judicial authority, and in extreme cases, by the deposition or even the execution and incorporation of the State in the territories directly administered by British Officers. Independent political communities cannot be subjected to punishment in the strict sense of the term. They cannot be legally liable for an offence to a penalty imposed by a political superior." ( Tupper pp. 5 ). The disabilities under which the feudatory Indian States labour are not often borne in mind ; otherwise much of the confusion which is created by reason of their enjoying certain indicia of sovereignty would never have arisen.

**Paramount power has rights independently of treaties.**

The Paramount Power deals with the Indian States and interferes in their internal affairs by reason of its position of a suzerain power as such. This right of interference is not based upon treaties but exists independently of the treaties. As the terms of reference have not included this suzerain duty and political practice followed in exercise of this duty, the present inquiry so far as the constitutional position is concerned would never be satisfactory and would fail to receive acceptance. Lord Reading has enunciated this position in his letter to His Exalted Highness the Nizam of 27th March 1926. His Excellency observed (1) the sovereignty of British Crown is supreme in India and therefore no Ruler of an Indian State can justifiably claim to negotiate with the British Government on an equal footing. (2) Its supremacy is not based only upon Treaties and Engagements but exists independently of them and quite apart from its prerogative relating to the foreign powers and policies. (3) It is the right and duty of the British Government while scrupulously respecting all Treaties and Engagements with the Indian States to preserve peace and good order throughout India. The first term of reference ought to have included a reference to the duties of the British Government existing independently of the Treaties and Engagements. The inquiry, therefore, would never be comprehensive and would be seriously defective by reason of this omission.

**Grounds of interference.**

The Indian Princes however have been complaining about the interference of the Paramount Power in their internal affairs as a violation of their treaty rights. It is, therefore, pertinent to

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examine the circumstances under which the Paramount power interferes in the internal affairs of a State and how far such interference is in violation of treaty rights and how far it is justified by the position of suzerainty occupied by the Government of India. The Paramount Power interferes in the internal affairs of a State on nearly eleven grounds. It interferes (1) to settle disputes of succession and to recognise the succession to the gadis of Indian States and during the minority of a Ruler ; (2) to prevent dismemberment of a State ; (3) to suppress rebellion against the lawful ruler ; (4) to check inhuman practices or offences against natural law or public morality ; (5) to secure religious toleration ; (6) to enforce British rights such as the trial of Europeans ; (7) to establish uniformity of coinage, currency and weights and measures and to secure efficiency for the administration of the commercial services such as Posts, Railways, Telegraphs and Telephone lines and to safeguard financial interests such as the monopolies of opium, excise and salt ; (8) to enforce a policy of free trade ; (9) to possess jurisdiction over the part of the State through which a railway line passes; (10) to secure the extradition of offenders ; (11) and to prevent gross misrule.

If however these grounds about interference in the affairs of the Indian States are critically examined it will be apparent that some of them are essential to preserve the integrity of a State intact and that therefore there is no serious objection taken for the interference of the Suzerain power. Whenever there is a dispute about succession to a Gadi when rival claimants are fighting, when different sections of the people of a State are supporting such claimants and when bastards and imposters want to usurp the Gadi or when there is minority it is necessary for the Paramount Power to interfere to preserve the entity of the State, to settle disputes, to recognise valid succession and assume control of the administration and act as the guardian of the minor Ruler. This is one of the prerogatives of the suzerain power and the exercise of this is not generally contested. Similalrly any dismemberment of the State by reason of partition, family arrangement, testamentary disposition or by gift or alienation is not permitted by the suzerain power because to keep the integrity of a State undiminished and whole. Similarly interference to support the Ruler against rebellious subjects is also never resented. The prevention of

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inhuman practices and offences is supported on the ground of natural law and justice and public morality. This interference, therefore, is entirely acquiesced in by the Indian Ruler though such an act militates against their claims for sovereignty in domestic affairs. Similar interference for religious toleration is equally consented to by the Rulers, because it is the common law right to enjoy liberty of conscience under any form of Government. The interference to secure British interest is forced upon the Indian States by the superior position of the Paramount Power. This directly affects their sovereign rights and their pecuniary interests. The policies also as regards matters of common concerns such as railways, telegraph and telephone lines are made applicable to the Indian States on the strength of the dominant position of the Suzerain Power. Diplomatic pressure has been brought to bear upon the Indian States to close their mints, to suppress the manufacture of salt; to restrict the production, sale and consumption of opium and the farming of the Excise Revenue. All these have been pressed upon the Indian Rulers and they have been causing serious monetary loss to the subjects of Indian States and to their Rulers. This ground of interference comes under the second term of reference and would be dealt with separately; but so far as the abstract principle of interference in the internal affairs of an Indian State is concerned the British Government to advance imperial interests on the strength of its position as a suzerain power have been interfering against even the protest of the States (of both the Rulers and the ruled.) This subject of interference, therefore, is one which deserves careful investigation and scrutiny. A Royal Commission would be necessary to consider the grievances of the State, so far as the ground of the safeguarding of the Imperial interests is concerned. The second term of reference is confined only to financial and economic relations. But it does not cover the whole field, as the question of the trial of European British subjects and other such matters have been left outside the pale of this inquiry. In these cases interference has taken place independently of the treaty rights; and sometimes even in derogation of treaty rights. Unless therefore the first term of reference is interpreted to include the duties and policies of the Paramount Power towards the Indian States independently of treaty rights, and unless they are investigated there is no chance of fair and

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equitable treatment being meted out to the Indian States. So far therefore, the ten grounds of interference mentioned above are concerned there is not much difference of opinion between the Rulers of Indian states and the people of Indian States.

**Interference to prevent misrule.**

Serious difference of opinion, however, exists about this eleventh ground of interference to prevent gross misrule. The power of interference in the Indian States to secure good government and the welfare of the people does not require any treaty right but exists independently of the treaty right. It is this right which is seriously contested by the India Rulers on the ground that it violates treaty obligations. It is therefore of utmost importance to examine the whole situation in detail. When once the position of the Paramount Power is admitted or conceded it would be apparent that it is the duty of this Suzerain power to secure the welfare of the people under the protection of this power. This principle has been affirmed since a very long time and it is necessary to see how it is supported.

Lord Hardinge in 1848 wrote:—"The British Government never can consent to incur the reproach of becoming indirectly the instrument of the oppression of the people committed to the Princes' charge. If the aversion of a people to a Prince's rule should by his injustice become so universal as to cause the people to seek his downfall the British Government are bound by no obligation to force the people to submit to a Ruler who has deprived himself of the allegiance by his misconduct." In 1875 Lord Northbrook wrote to the Maharaja of Baroda, "My friend, I cannot consent to employ British troops to protect any one in a course of wrong doing. Misrule on the part of the Government which is upheld by the British power is misrule, in the responsibility for which the British Government becomes in a measure involved. It becomes therefore not only the right but the positive duty of the British Government to see that the administration of a State in such a condition is reformed and gross abuses are removed." Lord Salisbury in his despatch on the Gaekwar case observes, "Incorrigable misrule is of itself a sufficient disqualification for sovereign power. Her Majesty's Government have willingly accepted the opportunity of recognising in a conspicuous case the Paramount obligation which lies upon them of protecting the people of India



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from oppression." In 1886 Lord Dufferin personally warned a Chief that he could not countenance oppression and misrule. The Chief of a great Native State, His Lordship said, was not maintained in his position that he might neglect the welfare of his subjects and give himself up to indolence and the gratification of selfish desire. Tupper has observed "On the whole we may say that the obligation of occasional interference arises because it is the duty of the Government to maintain the general peace of the country and to give the inhabitants of the Native States freedom from misrule." Lord Harris, the Governor of Bombay, once remarked that the British Government cannot consent to incur the reproach of enforcing submission to an authority which is only used as an instrument of oppression. It was Lord Reading who has very clearly emphasised this position in his letter to His Exalted Highness the Nizam in the following words :—"But the internal no less than the external security which the Ruling Princes enjoy is due ultimately to the protecting power of the British Government and (1) where Imperial interests are concerned or (2) the general welfare of the people of a State is seriously and grieviously affected by the action of its Government, it is with the Paramount Power that the ultimate responsibility of taking remedial action if necessary must lie. The varying degrees of internal sovereignty which the Rulers enjoy are all subject to the due exercise by the Paramount Power of this responsibility." The position may therefore be thus summed up :—As a Paramount Power the British Government is responsible (1) for the welfare of the people in the Indian States ; (2) that they have every right to take remedial measures whenever the welfare of the people of a State is seriously and grievously affected by the action of its Government ; (3) that this responsibility exists independently of the treaties ; and (4) that the internal sovereignty of the Indian Princes is subject to this limitation. This then is the position of the Paramount Power so far as the welfare of the people in the States is concerned. The duty of the Paramount Power to secure good government to the people of the States is thus authoritatively acknowledged by eminent statesmen who have occupied responsible positions in India.

**Protection.**

This duty of the sovereign power is supported on another ground of very great importance. Indian Princes are secured on

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their Gadis by the protection of the Paramount Power. Without such protection it is not possible that a Ruler can be secured on his Gadi or in the continuance of the same in his family unless he is protected by the mighty hand of the Paramount Power. If this is not so the position of the Indian Rulers would become extremely helpless. They are not permitted by the Paramount Power to keep any efficient standing army. The army which they possess is more for show than for any active war-fare. Besides it is one purely composed of inefficient mercinaries. In any quarrel between the Indian Ruler and his people he cannot hold his position even for a day unless supported by the strong hand of the Paramount Power. The British Government interferes on the strength of its position as a Paramount Power to reduce to obedience the subjects of any Indian Ruler whenever they rise in rebellion against him for misrule. If the British Government would not interfere in all the internal disputes as it was once its policy it would be impossible for any Indian Ruler to continue on his Gadi in the face of discontent amongst his subjects. In every country whenever there is discontent amongst the people it naturally leads to civil war and rebellion, assassination and dethronement of the Ruler. These are the usual consequences which follow. Overthrow of misrule and oppressive Government is the birth-right of all the citizens. The Magna Charta of the English people gave a legal sanction to the natural right of resisting aking who rebels against the law.

The external limitations on every sovereignty as described by constitutional writers are " that the authority even of a despot depends upon the readiness of his subjects or some portion of his subjects to obey his behests and this readiness to obey must always be in reality limited. The unwillingness of the subjects to obey may have reference not only to great changes but even to small matters and what is true of the power of a despot or of the authority of a constituent Assembly is specially true of the Sovereignty of Parliament. It is limited on every side by the possibility of popular resistance." (Dicey on the Law of Constitution, pp. 76). Resistance, therefore, caused by misrule is the legitimate right of the citizen.

In this connection the observations of Viscount Bryce are very important. " A Sovereign *de jure* has a *prima facie* claim to

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obedience which can be rebutted or discharged under certain events and one of them is if in a State his powers are not limited by the constitution he has abused his legal power as to become in fact a tyrant, a foe to the objects of peace, security and justice for which government exists. In such a case it would be now generally held that the citizen is absolved from allegiance and that the sacred right of insurrection which the French revolutionists and their friend Jefferson so highly prized must come into play. In case where no constitutional remedy exist the formerly de jure Ruler, since he has made himself a tyrant or ruler against law, has created a state of war between himself and the citizen and opposition to him becomes a duty which is of stronger or weaker obligation according to the greater or lesser enormity of his office and the greater or lesser prospect of success in such opposition. (Bryce, Studies in History and Jurisprudence, Vol. II. pp. 544).

The Paramount Power has taken away the right. The doctrine that interference should take place only when misrule develops into rebellion has no foundation in law. As even in the domain of jurisprudence preventive measures are taken to safeguard against breaches of peace, it is equally necessary as a preventive measure that the Paramount Power must interfere to prevent misrule to develop into rebellion. It will thus appear that the present policy of noninterference on behalf of the people is thoroughly ill-advised, highly unjust. If the Paramount Power had followed the policy which they once declared in the case of Bikaner in 1830, the condition of the people and the Indian States would never have grown worse and would undoubtedly have been far better. If the Princes feel the consciousness or if they are given to understand clearly and unequivocally that in a conflict between the Rulers and the ruled in an Indian State the Paramount Power would not interfere the instinct of self-preservation if not any thing else would ensure good government in Indian States. The people of the Indian States, therefore, bitterly complain against the onesided protection to the Rulers on the mistaken policy of non-intervention in favour of the people, of the States and againse the neglect ef the Paramount Power's duty to secure the welfart of the people in the States.

Sir Thomas Munro once observed " usual remedy of a bad Governmentin India is a quiet revolution or foreign conquest. But the

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presence of British forces cuts off every chance of remedy by supporting the Prince on the Throne against every foreign and domestic enemy. It renders him indolent by teaching him to trust to strangers for his security, and cruel and avaricious, by showing him that he has nothing to fear from the hatred by his subjects." When misrule reaches a high pitch rebellion would become morally justifiable as is observed by Tupper. Lord Salisbury in his despatch on the Gaekwar case has stated that the British Government which has deprived the Sardars and ryots of the power of righting themselves would not be justified in using its supremacy to compel them to submit to a Ruler whose incurable vices have been established by a full experience. By the power of rioting Lord Salisbury means the natural right of rising in revolt against misrule and oppression. The following observations of a writer in the Asiatic Quarterly Review (Vol X, 1895, p. 209) deserve serious consideration.

"The question of how far we are justified in interfering with the internal administration of Native States is one about which there are various opinions. Some say that we should leave them severely alone, and allow them, so to speak, to stew in their juice; others again say that the British Government should interfere in all cases of injustice; that the Resident of the Capital of an independent State should be the ultimate court of appeal; and that our responsibility for good government and justice is not merely confined to British India, but extends also to our protected and feudatory States. There is a good deal to be said for the latter argument; for it must be always borne in mind that since the introduction of the "Pax Britannica," we have taken away from the people the only and time-honoured remedy of oriental nations against a despotic and oppressive government, i. e. revolt and assassination. We act as the police of India to keep the peace throughout the land, and this protection is of considerably greater benefit to the independent Princes than it is to the people under their sway. The result is that injustice is often committed and oppression is practised, against which the people have no remedy; because while we prevent them from indulging in any outburst of indignation we refuse to interfere in matters which concern the internal administration of an independent State. This word "independent" is a very misleading one. The condition of affairs at the end of this nineteenth century is very different from

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what it was at the commencement. A hundred years ago, the different native States were either our enemies or our allies. In the course of time the former have been conquered and the latter have fallen into the second rank of subordinate States. No one will for a moment pretend that in the case of a question of Imperial policy affecting the whole country we should be justified in yielding to the wishes of one or more States merely because they claimed to be independent. In such a case their protests would not be regarded, and they would be compelled to conform with the Imperial policy, treaties and agreements notwithstanding. When the Queen became Empress of India, the whole condition of the relations between the Imperial Government and the Native States became changed. This being so, we refuse to recognise the independance of the vassal States in the matter of Imperial policy; are we justified in refusing to interfere in matters of public justice and good government in which the interest of the millions under their charge are concerned? The different states may have their own laws and customs and their own system of revenue, taxation and administration. These are all more or less founded upon civilised bases, and the people who reside in such States do so with their eyes open–a remark especially applicable to stranges who of their own accord take up their domicile in such countries. But it is the administration and execution of those laws with which we have to do; for it depends upon the manner in which they are administered whether justice is done or injustice is committed.

The Queen-Empress being the overlord of the States, I maintain that the subjects of a Native ruler have as much right to expect redress for injustice from the hands of her representatives as have her immediate subjects. But as long as we refuse to interfere in matters of internal administration, they are not always sure of receiving that justice, and are debarred from appealing to the British representative. The British Resident at a Native Court should be something more than passive. He should be the Guide, as well as the Philosopher and the Friend. As far as the States themselves are concerned, the policy I advocate is the kindest in the end. The stewing-in-their-own-juice policy, is calculated to lead, in the long run, to maladministration, which compels an interference of a far more active kind, if not actual annexation.

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In many of the minor States, such as some in Rajputana this is what is practically done; but in the larger States this is not the case, and the outcry of "interference with an independent State" is apt to be raised, whenever the Resident endeavours to advise it for its own good. This outcry generally proceeds not so much from the Princes themselves as from their officials, who, for the most part, have been borrowed from the British Service, or who have immigrated from British Provinces. I by no means advocate a nagging and petty interference in matters of detail; but where the carrying out of the laws, or where justice is concened, the subjects of a native state have, I maintain, as much a right to look to the representative of the Imperial Government for protection against misrule and oppression, as the Princes themselves are entitled to our protection from rebellion and anarchy. The protection, therefore, afforded by the British Government to the Indian Princes makes the discharge of the sovereign duty of securing the welfare of the subject of the people of Indian States still more imperative."

**Sovereignty in domestic affairs.**

When once this sovereign duty is clearly understood and its existence independent of treaty rights is fully borne in mind and furthermore when its direct relation to the protection extended to the Indian Rulers is taken into consideration the objections of the Indian Princes to interference in the internal affairs of any State on the ground of misrule loses all its justification. The Indian Princes maintain that they are sovereigns in their internal affairs and that therefore the British Government should not interfere on on the ground of misrule in their domestic affairs. This claim namely of sovereignty is not at all tenable. The doctrine of Sir Henry Maine that sovereignty is divisible is accepted on all hauds. The principal insignia of sovereignty are four, namely, the power of defence, the power of legislation, the power of taxation and the power of administration. Indian Princes clearly admit and the treaties concluded with them also prove that the power of defence does not vest in them; that it is the sole concern of the Paramount Power. As regards the power of legislation and taxation within the limits of their own States the Princes do enjoy sovereign rights. As regards, however, administration there is one important limitation namely that they are to conduct themselves in

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such a manner in the Government of their States that they do not provoke their people by their misrule to open rebellion and conflict. If they do so the security and peace of the State is in danger, the autonomy of the State is threatened and in the interest of the Princes themselves the British Government is bound to interfere, suppress rebellion and restore peace and order and thus secure the Ruler in his position. Now the price of this protection is this right of interference in the internal affairs of the States. The Princes therefore cannot claim sovereignty in their internal affairs. Lord Lytton in his despatch to the Secretary of State for India prior to the rendition of Mysore has clearly stated, "The British Government now undertakes the duty of protecting all Native States in India from external enemies and of preserving internal order by measures necessary for securing the people from misgovernment and for supporting the lawful authority of the Ruler. So also the powers of the British Government to prescribe the forms of administration and to insist that its advice be adopted are the necessary correlatives of the admitted responsibilities of the British Government for the internal peace of the whole Empire and the general welfare of the people". It is thus quite clear that the right to interfere and to adopt necessary measures for saving the people from misgovernment vest in the British Government by reason of the protection guaranteed to the Indian Rulers. They are the necessary corollaries of the admitted responsibilities of the British Government. Lord Cranbrook, the Secretary of State for India, in the same connection emphasised the same view in these words :—"The absolute security against internal revolt which is now enjoyed by the native Rulers enjoins upon them obligations towards their subjects which they cannot be allowed altogether to disregard. It is in the gradual and judicious extension in native States of the general principles of the Government which are applied in the British territory that their Rulers will find the surest guarantee of their administrative independence and the best safeguard against intervention on the part of the Paramount Power." The remedy against intervention, therefore, does not lie in expressing dissatisfaction at the discharge of duty by the suzerain power but in adopting general principles of Government made applicable to British India and this is the surest guarantee of administrative independence. Lord Cranbrook has used the word administrative

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independence and not sovereignty in domestic affairs; and Lord Reading recently has also reaffirmed this view that "the varying degree of sovereignties in their internal affairs enjoyed by the Rulers is subject to this limitation, namely, the power of interference to secure the welfare of the people of the States." The claim of sovereignty, therefore, is not at all warranted even in domestic affairs.

**Teaties and political practice.**

If we now examine the treaties and engagements concluded with the Indian States they will also bear out the proposition which has been enunciated so clearly by Lord Reading. We have herewith appended a statement about 'Treaties and Political Practice' (vide supplement). We have confined ourselves to the Treaties and Engagements concluded with the States which are admitted as members of the Chamber of Princes. The statement would clearly show that nearly 32 of the 108 members of the Chamber of Princes have expressly undertaken by their treaties to maintain good government, to improve cultivation, to secure the welfare of the ryots and their happiness and contentment. The Paramount Power has, therefore every right to enforce the obedience of these undertakings. It will also be seen that in the case of other States from the the foremost of them, "the 21 gunners" as they are called, to a small State of 9 guns so-called political practice has been followed in order to maintain the autonomy of the State, to restore order and put a stop to misrule. Political practice is a name which can be applied to the exercise of the duty of the suzerain power to secure the welfare of the subjects on all occasions whenever the exigencies of the State require the interposition of the authority of the Paramount Power and this exercise of the duty is independently of the treaty obligation. The complaint of the Indian Rulers therefore about this ground of interference is thoroughly unjustified. Tupper has observed that "this interference could be effectively restricted if only the Indian Rulers maintain good government. Chiefs who govern well need not have any fear of interference. The British Government has responsibilities upon it which are heavy enough without its seeking to add to them. Good administration, however, is not easy. It requires experience, capacity, constant hard work and for a Chief we must add good and trustworthy advisers" (Tupper pp. 307). The same writer has



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very graphically described what the absence of good government means in the case of Indian States. "There may be cases where the inertness of the Central authority and its callousness to the welfare of all except the army, the Court and the priestly classess may be gradully bringing about serious misgovernment. There may be no outcry, no wide-spread discontent, no glaring iniquity but either from the idleness and incapacity of the Chief or from his jealousy of other authority there may be a complete block of business, it my be impossible to get any long and intricate case decided because the Chief either will not or cannot deal with it himself and will not allow it to be dealt with by his subordinates. There may be a slipshod style of work in all departments. The administration of justice may be slow, careless, often currupt. At the capital, we may see a veneer of civilization and a number of officials with high sounding titles of State. Five miles away there may be complete neglect of the most elementary requisites of efficient administration and no money may be spent on any object that is not religious or military or directly remunerative. If to neglect and suspicion be added avarice, if there be deliberate attempts to break the tenures or large classes of the peasantry, if taxes are laid upon peasants heavier than they can bear, if without trial men are seized and imprisoned and their property confiscated the time is at hand when forbearance towards the Chief becomes wrong to his people and when remonstrance if unheeded must give way to direct measurs of reform." The picture of the Indian States which Mr. Tupper drew 35 years ago is equally true of the condition of things in the Indian States of the present time. The objection, therefore, on the score of the treaty rights also fails.

Another consideration which it would be worth while to consider is that the Indian Princes do not want the British Government to interefere whenever there is misrule; but it would be pertinent to ask them if they would desist from invoking the aid of the mighty British Government in any conflict with theis subjects brought on by their misrule. If maladministration leadr to rebellion they would piteously appeal to the British Government for protection under their treaty rights. If really they desire non-interference it should be at every stage of this conflict. They do not want the Government to interfere in their domestic affairs till there is an open rupture; and when peace and order

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are disturbed by reason of the intense discontent caused by misrule they want the Government to interfere and subdue their people. The history of Tonk illustrates what is stated above; but it is to be submitted that this kind of non-interference is most unjustifiable. If the government would not interfere on any account as was the policy of of the Government in the early part of the nineteenth century, the Indian Princes would at once realise the gravity of the situation and the risk they would run by 'this divine right to misrule' and by creating a feeling of discontent amongst their subjects. In the year 1830 Government declined to interfere in the affairs of Bikaner when the Chief of Bikaner had to face the rebellion of his nobles. He was clearly given to understand that he had no right to call upon the British Government for military aid against his disaffected subjects at any future period (Aitchison Vol. III. p. 338). This policy was abandoned by the Government and they now do protect a Ruler from his rebellious subjects. But, if, however, this attitude of non-interference is strictly maintained and if the Paramount Power declines to interfere both for the Ruler or for the people, how many Indian Rulers can afford to indulge in maladministration? The present policy of non-intervention is pursued with vengeance. Non-intervention is resorted to whenever the subjects demand intervention and intervention is pursued on behalf of the Princes whenever the subjects would like to be left free to settle matters with their Rulers. And this has been the principal cause of the prevailing misrule in the Indian States. The objections therefore of the Indian Princes against the exercise of this duty of the Paramount Power to interfere in the internal affairs of their States to secure the welfare of the subjects have been shown to be without any justification.

## Relations of a Ruler

We have so far dealt with the duties of the suzerain power towards the people in the Indian States. The State includes not only the common citizen but also persons belonging to the Royal family and another class whose rights have been guaranteed by the Paramount Power when treaties were concluded with these Rulers. The Paramount Power, therefore, has also the duty to safeguard the interests of these two classes along withthe interests of the common people. We have heard of complaints from the

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Maharanis of Indian States, from the heirs-apparent, from brothers sisters, parents and other intimate relations of the Rulers who are suffering great hardships. In the case of a Maharani the legally wedded wife of a Ruler, though she is entitled to protection, to enjoy liberty of person, and to decent maintenance at the hands of the Ruler, her lot is most miserable. Such cases are by no means rare. If a Ruler has co-wives or if he is addicted to voluptuous life and to concubines or is under the overpowering influence of favourites, sycophants, or is cruel and barbarous by temperament, the wives of the Rulerare subjected to indignities which are beyond human endurance. Sometimes they are ruthlessly separated from their own children and have to pass their lives in solitary dangeons. Heirs-apparents and would—be Rulers are also treated with scant courtesy and are deprived oftentimes of ordinary amenities of life, are not properly looked after and educated. Similar cruel treatment is oftentimes meted out to the personal relations of a Ruler who are dependent on him. If the Ruler had been any ordinary person not holding a privileged position the aggrieved party would have resorted to the common law remedies in the Municipal Courts of every State. But in many States a Ruler cannot be sued in his own Courts and secondly as a rule there is no independent judiciary in these States. The conidtion of this class, therefore, is most helpless and deserves commiseration. It is exactly a case where there is legal wrong without legal remedy! Is it not therefore the duty of the Paramount Power to provide an open and easily accessible forum for the redress of the wrong of this class and to give adequate relief? It is absolutely necessary that the forum should be independent of the control of a Ruler against whom relief is sought and access to it must be permitted as a matter of right and not grace, as is the case at present.

## Guarantee holders.

Similarly, there are certain persons to whom guarantees have been given by the British Government for the preservation of their interests. The modern tendency of the Indian Ruler has been to encroach upon the vested rights of these guarantee-holders such as feudatories, Inamdars, Saranjamdars and others. Their only remedy lies in appealing to the Political Officers who

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under the mistaken but generally adopted policy of non-intervention in the internal affairs of a State decline to interfere and the result has been that the rights of these people are whittled down every day by the high-handed policy of the Rulers and their deliberate encroachments. The interests of this class have seriously suffered diminution and are threatened with total extinction. Is it not the duty of the suzerain power to uphold the interests of these people to whom their word is pledged as a guarantee? There has been a failure in the discharge of the duties of the suzerain power to the entire prejudice of this class. If a Commission is appointed, convincing and cogent evidence of an overwhelming character would be forthcoming to show how the neglect of its duty by the Paramount Power has prejudicially affected the ordinary people in the States, the relations of the Rulers and the privileged classes. The complaints of all these classes have been very serious and the time has come when they ought to be investigated.

## Reform of the Political Department.

When once the duty of the Paramount Power to secure the welfare of the people of these States is admitted and understood, it is relevant to consider how this duty has been discharged during a period extending over nearly a century. The Government of India exercises the Paramount Power delegated to it by Parliament through the Foreign and Political Department. Of all departments under the Government of India this department is most irresponsible and irresponsive to the people in Indian States. This department invariably follows the lines of non-intervention in the domestic affairs of a State, whenever the interests of the people are concerned. Whenever Imperial interests are involved or the safeguarding of the financial position of the Government of India is concerned, the Department has been active and vigilant, has used its diplomatic pressure to induce the Rulers to consent to measures required by the Paramount Power and to follow policies which are initiated by the same Power. The closing of mints, the abolition of the manufacture of salt, the construction of railways, the establishment of telegraph and telephone lines through the limits of these States, the acquisition of jurisdiction over State territories occupied by railways and telegraph lines, the

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abolition of all custom duties and inter-state tariff barriers for the promotion of free trade, the introduction of British currency, the reduction of the cultivation and consumption of opium, ganja, and other articles of excise and taking the farming of these sources of revenues–all these concessions have been obtained by the Political Department from the Indian Rulers with all the diplomacy at their command. Treaty rights and obligations have never deterred them from achieving the objects of imperial policy. But whenever the people of Indian States appeal to these officers of the Political Department who are posted in the neighbourhood of these States they invariably decline to interfere on the ground of supposed treaty rights and obligations. Experience has shown that whenever a political officer is inclined to interfere (and such cases are unfortunately very rare) the Political Department successfully interferes, treaty rights and obligations notwithstanding. It is, therefore, most partinent to ask why the Department should display active and vigilant solicitude when imperial interests are involved and should display utter indifference when the welfare of the people is concerned. The Department therefore deserves to be overhauled, the mistaken application of the policy of non-intervention to be abandoned and to be made responsive to public opinion and responsible and attentive to the criticism of the Central Legislature. In view of the sovereign duty of the Paramount Power to secure the welfare of the people and the admitted dependence of the Rulers as feudatories of this Paramount Power, the statutory restrictions which have been imposed upon the discussion of any question affecting the Indian States on the floor of the Houses of the Central and Provincial Legislatures deserves to be removed. In view of the general policy of indianisation made applicable to other departments under the Government of India, it is also necessary that indianisation on a larger scale should be introduced in the Political Department. By reason of their closer contact with the people in the Indian States, by reason of their familiarity with the state of things prevailing in the Indian States, by reason of their intimate knowledge of the traditions, customs and notions about these Royal personages and dynasties and by reason of their natural affinity and sympathy towards both the Rulers and the ruled, the Indian Political Officers would undoubtedly secure greater efficiency of the

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Department and considerably advance the contentment and happiness of the people in the Indian States.

## Wrong Formula.

This Political Department has adopted a formula that they would interfere in the affairs of a State when misrule would be long, gross and continuous. Sir william Lee-warner in his " Native States of India" has observed "their (the Government of India) intervention when called for granted in consequence of misrule has only been accorded where the circumstances were exceptionlly grave and misgovernment both long, continuous and gross." (pp. 303). It might have been out of a policy of not estranging the sympathies of the Rulers and the outcome of the experiences of the Indian mutiny. The *New Statesman* of England recently observed the "the general position of the Indian States as we know it to-day may be said to have taken shape under the terms of the settlement which followed after the mutiny. Whatever the truth as to the proximate causes of that upheaval, it is beyond dispute that the events of 1857–8 would have followed a different course if the Indian States had not been deeply disturbed by the vigorous policy of annexation carried to its limit by Lord Dalhousie after 1850. The dissolution of the East India Company and the transfer of all authority to the Crown made the starting point for a new policy and temper. They inaugurated a long period during which everything possible was done by successive Rulers of British India to give the feudatory Chiefs a feeling of security and immunity. The old treaties made by the Company were solemnly confirmed. The Princes were complimented upon being the faithful allies of Imperial Britain. They were flattered by salutes and decorations. Unpleasant incidents in connection particularly with the major States were of the most infrequent occurrence ; and it was thoroughly well understood that all the authorities were agreed as to the folly of making trouble. The Indian States of course were recognised as a picturesque anomaly. The status of the Princes was designedly kept vague neither at Whitehall nor at Simla. There was any wish to stir things up still less to move towards any change. The break in this tradition came in the seven years of the Curzon Viceroyalty." This passage graphically describes the policy of the Political Department followed since the mutiny upto recent times. We, however,

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assert that this policy is not warranted by the terms of treaty obligations or treaty rights nor even by the first principles of government well recognised and understood. Why should the Political Department wait and allow misrule in an Indian State to ripen into a rebellion and lead to conflict, rupture and direct action? Why should the people suffer injustice and harrassment until the situation reaches the maximum point of intolerance. A pertinent question may be put. If the Government would allow misrule to become long, gross and continuous by any policy of indifference towards people and territories under their direct rule? Why should they subscribe to this vicious doctrine of allowing misrule to grow long, gross and continuous in the Indian States over which they rule as a Paramount Power, on which rests the ultimate responsibility of securing the welfare of the people? The duties of a Trustee are much more serious and still more onerous than those of an ordinary person. It is, therefore, obligatory upon the Paramount Power to have shown greater solicitude for the welfare of the people committed to the charge of the Indian Rulers under their suzerainty than they have shown about the people under their direct control. Is it not, therefore, necessary to abandon this policy and assume the right one which their position as Trustees entails upon them? And unless any inquiry is set on foot which gives opportunity to the people to show how they have suffered and how their welfare is seriously and grievously affected by the actions of the Rulers of their States it would not be possible to correctly appreciate the magnitude and the intensity of the grievance under which the subjects of Indian States are at present labouring by reason of the Goverument's mistaken policy of non-intervention.

The conduct of the Political Department is also open to the criticism that it has interfered in all cases wherever the Rulers in their frenzy and headlong career of maladministration have defied not only their subjects but even the Political officers. The history of the voluntary abdications of Indore and Nabha, the trial of Malhar Rao Holkar, the deposition of the Chief of Aundh and the ultimatum sent to His Exalted Highness—all these unmistakably prove that when the authority of the Government was directly challenged, when Imperial interests were seriously affected, when Political Officers were openly flouted and when attempts were made against

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on their lives, the Political Department hastened to interfere and adopted remedial measures ; but in all cases when the Rulers have been most obedient, nay even servile to the Political Department and attentive to keep the officers of the Department mightily pleased, they have been suffered to continue their misrule to the utter prejudice and ruin of helpless subjects of the State. When misrule becomes quite intolerable and people are goaded by desperation to the verge of rebellion, the Paramount Power has interfered. Is it not, therefore, absolutely necessary to change this policy and to adopt a vigilant and watchful policy to secure good government to the people so long as they are enjoying the protection of the Paramount Power ; that their sufferings should not be aggravated and should not be required to reach particular intensity before their wrongs could be redressed ? Such a treatment is thoroughly unjust and does not redound to the credit of the Paramount Power.

The Indian States are in a most backward condition. With few exceptions there are no representative institutions, no association of the people with the government in any shape or at any stage and no rule of law. If only the Political Department had exerted itself as zealously as it has done in furthering Imperial interests, the moribund condition of the people of the Indian States would never have lasted till now. The Indian Princes with very few exceptions have been most obedient and loyal to the behests of the Political Officers. They have acquiesced in all policies forced upon them, though they were seriously detrimental to their interests simply with a view not to displease the Paramount Power. If, therefore, the Political Officers had taken the right initiative and induced the Princes to adopt all the forms of government introduced in British India in oredr to ensure good government and also for the progressive realisation of responsible government, the Indian States would have undoubtedly risen to the level of British India as regards administrative efficiency, good government and the stages of self-government. The backward condition of the Indian States is therefore primarily due to *laisse faire* policy of the Political Department in regard to the internal administration of the States, so far as administrative efficiency, good government and self-government are concerned.

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## The Announcement of 20th August 1917.

This inevitably brings us to the consideration of the duty of the Paramount Power to bring about uniformity of political ideals and standards of Government. His Majesty's Government in 1917 by the announcement of August 20, have declared "the policy of His Majesty's Government with which the Government of India are in complete accord is that of the increasing association of Indians in every branch of the administration and the general development of self-governing institutions with a view to the progressive realisation of responsible government in India as an integral part of the British Empire." This announcement contains reference to India and the Indian people; and these expressions are understood to mean not only British India and British Indian people but also Indian States and the Indian States people. The definition of India as contained in Section 124 of the Government of India Act of 1858 means British India and the territories of the Native Princes and the Chiefs. We are also advised to read the words of this announcement very carefully. Is it not therefore quite evident that His Majesty's Government has declared this ideal of responsible government not only for British India but also for Indian India which means the Indian States? The Indian States occupy an integral position of the body politic of India. They are bound to come closer into the orbit of this Empire. The process at work in British India cannot leave the States untouched. In spite of this, no efforts have been made since the Report on the Constitutional Reforms to induce the Indian Princes by persuasion, by advice, by diplomatic pressure to adopt this ideal of responsible government which His Majesty's Government has openly declared. It is also significant to note that with the exception of two or three Princes not one of them has proclaimed the acceptance of this political ideal and has promised to try to bring about the progressive realization of this ideal in his State. If Indian States are to come within the orbit of this Empire, is it not necessary that they should loyally and faithfully accept this ideal which His Majesty's Government have after long experience and deliberate conviction, declared as applicable to both parts of India? Why should therefore efforts not be made to emphasise the necessity of adopting this ideal and securing the consent and active co-opera-

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tion of the Indian Rulers in giving effect to this ideal ? The policy of the Paramount Power has been to elevate the Indian Princes to an International status in all over-sea functions; the invitation to the War Cabinet and to the sessions of the League of Nations, their inclusion in the British delegation, these privileges undoubtedly carry out the obligation of faithfully and loyally accepting the common ideal of this Empire. Responsible government is completely enjoyed in the United Kingdom and even in self-governing dominions under the Empire and this very ideal is declared as the ultimate goal of the Government in India. If this is so, it behoves the Paramount Power to encourage by every means at their command the acceptance of this ideal by the Indian Princes. Invitations to all State functions, admission to the Chamber, conferring of titles and salutes and decorations and invitations to Imperial Assemblages should invariably be restricted only to Princes who have openly adopted this ideal and who are honestly trying to carry it out within the limits of their respective States. It would be very instructive to follow the advice which Lord Mayo gave in this connection. Speaking to a Chief, he said : "if you wish to be a great man at my Court, govern well at home ; be just and merciful to your people. We do not ask whether you come with full hands but whether you come with clean hands ; no presents that you may bring can buy the British favour ; no display which you may make will raise your dignity in our eyes ; no clinging or flattery will gain my friendship ; we estimate you not by your splendour of your offerings to us nor by the pomp of your retinue but by your conduct of your subjects at home. For ourselves we have nothing to ask of you ; but for your people we demand good government and we shall judge you by this standard alone ; and in our private friendship and hospitality we shall prefer the smallest feudatory who rules righteously to the greatest Prince who misgoverns his people" ( Life of Earl of Mayo by W. Hunter. ).

## What Responsible Government means in Indian States.

When once this ideal is accepted, it connotes Parliamentary government and the rule of law. These are the essential characteristics of responsible government as understood and as prevail-

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ing in the United Kingdom and self-governing dominions. If responsible government is established in a State it would remove every cause of internal discontent, make the Ruler thoroughly constitutional like His Majesty the King Emperor of India and will secure not only Parliamentary government but all the blessings of the rule of law to the people of the Indian States. What is missed in Indian States can very briefly be summarised as Parliamentary government and the rule of law. The introduction of Parliamentary government would satisfy the legitimate aspirations of the people of the State. The establishment of the rule of law would ensure all the rights which every citizen is entitled to enjoy under an autonomous government. It is superfluous to add that the rule of law cannot be established and its continuance cannot be assured unless there is supremacy of Parliament, the responsible form of government, and constitutional monarchy in the Indian States. The adoption of this ideal therefore would remove all the necessity for interference in the affairs of any State on the score of misrule. It will remove the constant complaint of the Indian Rulers about intervention. There is, however, one important consideration which the Paramount Power should place before it, viz. that it should endeavour by its policy to bring about this consummation which has been envisaged in the Montford Report. "Our conception of the eventual future of India is a sisterhood of States self-governing in matters purely local with a central government increasingly representative of and responsible to the people of them. In this picture there is a place for Native States also." If this conception therefore is to materialise, is it not obligatory on the Paramount Power in the interests of this Commomwealth of Nations to induce the Indian Princes to adopt this ideal and make honest endeavours to realise the same? This duty of the Paramount Power is not being discharged and if an opportunity had been afforded by the appointment of an inquiring body like the Statutory Commission it would have been possible to ascertain from Government what efforts they have made to induce the Rulers of Indian States.

**Periodical examinations.**

We, therefore, tried hard to explain the duties of the Paramount Power which exist independently of the treaties and the exercise

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of which is absolutely necessary to secure the welfare of the people of the Indian States and how the omission to exercise these duties is causing serious injury to the people of the Indian States under the protection of this Paramount Power. There is however another thing which deserves special mention. From the statement of treaties and political practice which we have kept herewith and also from the terms of treaties of several States, it will appear that the Indian Princes are required to secure contenment and happiness of their people, improvement of cultivation, and proper dispensation of justice to their subjects. Is it not obligatory on the Paramount Power to hold periodical inquiries to ascertain how far these treaty obligations have been carried out by the respective Rulers? Independently of Treaties, there is the power for Government to put a stop to misrule and restore good government. But intervention has taken place only when serious trouble in the State forced the attention of the Paramount Power to the situation and when misgovernment had reached its utmost height in that it had become gross, long and continuous. But this is not adequate discharge of that duty which is imposed upon the Paramount Power to see how treaty obligations have been fulfilled by the Indian Rulers. Inquiries ought to have been held from time to time like the inquiries about the conduct of Indian affairs by the East India Company or periodical examinations ought to have been conducted to ascertain whether the Indian Rulers were properly discharging their obligations imposed upon them by the treaties. It is, however, a matter of intense regret that no such systematic inquiries have been held and there is a failure on the part of the Paramount Power in ensuring the observance of the treaty obligations on the part of the Indian Rulers. The Indian Princes often complain of the violation of the treaty rights. But what of these treaty obligations? Who is to enforce them and when? All this is left studiously vague. Is it not, therefore, the duty of the Paramount Power to take the initiative and ensure to its satisfaction that treaty obligations have been faithfully discharged by Indian Princes?

So far, therefore, as the first term of reference is concerned, it leaves outside its scope these duties of the suzerain Power which exist independently of the treaties. A thorough inquiry about them

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was necessary and the people of Indian States demand that a Royal Commission should be appointed to investigate fully the aspects of the duties of the suzerain Power towards the Indian States people and towards the Indian Rulers. So long as this is not done, discontent in the Indian States will only become aggravated as time passes.

### Direct relations with the Crown.

It would not be out of place if we noticed a fallacious doctrine which has been set up by the Indian Princes for the perpetuation of their autocratic powers and for safeguarding their position from the influence of the democratised constitution of British India in the future. They maintain that whatever their obligations may be to the Paramount Power, they are to the Crown and not to the Government of India as it may be constituted in the future. They have set up a theory of direct relations with the Crown. It displays ignorance of history and lays down bad law. We have in a separate appendix exhaustively dealt with this theory and exposed its hollowness.

We maintain that the relations of the Indian Rulers are with the Government of India. They have no direct relations with the Crown or even with His Majesty's Government. The Government of India has exercised and does exercise the authority of the Paramount Power. This authority is delegated to it by Parliament. The reforms in the future are intended to bring about changes in the personnel of the Government of India and change in its responsibility. Mr. Montagu pointed out in the House of Commons that in order to realise responsible Government you must gradually get rid of government by the agents of Parliament and replace it by government by the agents of the representatives of the people of India and responsible to the people of India. It will thus appear that hereafter the agents of the people are to carry on the administration and to maintain King's Government and are to be responsible to the people. There is not going to be any diminution in the powers and authority of the Government of India which are enjoyed by them at the present time. The Government of India to-day exercises control as a Paramount Power over the Indian States. The future Government will exercise the same authority.

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Indian Princes have now been complaining about the violation of their treaty rights and about the usurpation of their treaty rights by these agents of Parliament who controlled their relations till now and who were irresponsible. They are dissatisfied with their management. If, however, instead of alien agents they get agents who belong to the same nationality and who have evinced great attachment, reverence and respect for the Princely Order in India and who would be responsible to the people, why should they apprehend that their interests would suffer under the future Swaraj? If, however, they adopt the ideal of His Majesty's Government, their position under the Swaraj Government would be completely guaranteed, the continuance of themselves and their successors on their Gadis would be fully assured, and their dignity, prestige and honour would be properly maintained. The theory of direct relations therefore is not supported by past history or by any statutory precedent or legal authority. It is further most suicidal and would not enable the Indian Princes to maintain an honourable and self-respecting position in the future if they persist in shutting their eyes to the natural forces which are at work.

## Rights and Duties of Feudatory Princes.

We generally find the Indian rulers have got the right of seeking protection of the British Government against foreign enemies and internal disturbance and even in cases where their own nobles and subjects rise in revolt against the rulers. The obligation on the part of the rulers generally is that they have agreed to submit to the authority of the British Government as Suzerain Power and to work in subordinate co-operation with that Power. They have also undertaken not to have any connection with other ruling Princes and Chiefs except through the medium of the Paramount Power, not to commit aggressions on any one and to render all possible help in time of any crisis where such help may be required by the Paramount Power. They have also agreed not to employ foreigners in their service without the consent of the Paramount Power and to suppress dacoities, highway robberies and try to keep all means of communication safe and unmolested. All these undertakings, intended to support the Suzerain Power and its prestige, have been faithfully kept up by all the Indian Rulers

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uninterruptedly, since the Mutiny till the present time. Even during the troublous times of the Mutiny, the loyalty of many of the Indian Rulers was steadfast and they saved the situation. The rights and obligations, therefore, relating to the Sovereign Power have remained intact and been respected on both sides.

**Express and Implied Obligations.**

But in the case of many states there is an express obligation contained in the treaties which charges the Rulers to secure good government, to advance cultivation and to bring about the contentment and happiness of the subjects and to do justice in a proper manner. It is this treaty obligation which has not been faithfully carried out.

But where the treaties are not so concluded or where this obligation is not expressly recited in the treaties, engagements and Sanads, it still exists and arises from the simple position of a feudatory state. In the correspondence relating to Manipur which had been laid before Parliament, the Government of India declared that the sovereignty of the Chief being limited in various degrees no chief has a right to misgovern his territory. (Tupper page 12). Even in cases where treaties expressly mention that the Maharaja and his heirs and successors shall remain absolute rulers of their country, such clauses have not prevented the British Government from interfering in order to ensure good government. In 1818 a pledge was given to the Maharaja Holkar that no officer of the Company shall ever interfere in the internal affairs of the Maharaja's government. In 1835 the Maharaja invoked the intervention of the British Government against his own mutinous subjects. In the treaty of Bhopal of the year 1818 there is a condition that the Nabab and his heirs were absolute rulers of their country ; yet in 1863 when necessity arose there was interference and the clause was interpreted so as not to divest the political jurisdiction of the Paramount Power over the State. In the case of Kashmir, although the treaty mentioned that the Maharaja received the grant as an independent charge, two years later the Maharaja was informed that in no case would the British Government be blind in instrument of a ruler's injustice towards his people. The sanad granted to the Maharaja of Patiala con-

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tained a clause that the British Government would not receive any complaint from any subject, jahagirdars, relatives, dependents, servants and others; yet the same Viceroy had recorded in a minute asserting the right of the British Government, whenever it was necessary to step in, to set right serious abuses in the case of the same State. Lord Canning in his minute dated 30th of April 1860 has stated that " nothing will debar the Government of India from stepping in to set right such serious abuses in a native Government as may threaten any part of the country with anarchy or disturbance nor from assuming temporary charge of a Native State when there shall be sufficient reason to do so. This has long been our practice ". Sir William Lee-Warner has given a very satisfactory explanation of these treaties in the following words. " It seems then that whatever single expressions and clauses may be extracted from Indian treaties in favour of the absolute right of the protected sovereigns to govern as they please, the treaties themselves and the parties who signed or ratified them have persistently upheld the view that under certain well understood but undefined conditions the British Government has a right of interference or in other words that the Sovereigns in alliance with the King are under obligations to the Paramount Power to order and arrange their internal concerns so as to render such intervention necessary " (Native States of India, page 290). It will thus be quite evident that the position of the Indian Rulers is that of dependent vassals or feudatories and as such it is their duty to maintain good government within their territories, whether such duty is undertaken expressly by the treaty or whether there is no treaty at all. This obligation, therefore, flows, from the necessary position of the feudatory ruler. The statement that we have appended of treaty obligation and political practice of the 108 members of the Chamber of Princes clearly shows how many of the states have this obligation imposed upon them by the express words of the treaties and how many of them have this obligation enforced on them even in the absence of treaties, engagements and Sanads by the position of subordinate alliance of the feudatories of the Suzerain Power.

**The wording of earlier treaties.**

It is pertinent in this connection, to bear in mind that the express treaty obligations to secure good Government find place



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in the engagements and sanads concluded and confirmed about the middle of the 19th century. In the treaties concluded in the early part about the last century viz., about 1818 express obligation about maintaining good Government is not generally included in the treaties. The reason of this is quite obvious. Just at the time when British Supremacy was established many states were independent and autonomous units. They had maintained their independence against foreign invaders and neighbouring Rulers by their own strength. The Ruler was able to maintain the entity of his state and its independence by the hearty cooperation of his subjects. There was complete identity of interests bwtween the Ruler and the ruled in every independent Indian State at that time. The people were attached to the Ruler by the instinct of self-preservation. Along with the ruler they had to maintain their own independence and save themselves from subjection to any other power. After British supremacy was established defence was taken over by the paramount Power and protection was guaranteed to every state which agreed to the Status of subordinate co-operation. Military strength of every State gradually diminished and martial spirit disappeared by sheer disuse. A ruler had then no necessity to keep his people contented and thoroughly attached to him, because the necessity for this no longer existed. He depended upon the Paramount Power and began to treat the States as his private property and did not feel any necessity to keep his subjects satisfied and contented. Estrangement between the Rulers and the ruled set in and misrule and avarice have widened the gulf. The mighty hand of the Paramount Power is ever ready to reduce people to obedience to their Ruler and enlightened self interest makes them loyal to him. But their interests are now at variance and there is no identity as it existed when their state was independent. For these reasons the necessity of a clause for securing good government to the people was not so imperative to those who concluded the treaties in the early part of the 19th century.

**Vestiges of good government.**

But when once the position of a feudatory is clearly understood the obligation of maintaining good government becomes patent in the case of every state. Indian Rulers have enjoyed the blessings of peace and order for at least 75 years. But what are

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the vestiges of good Government in the states? If we examine the conditions of Indian States from this standpoint it discloses a lamentable state of political backwardness in them. In a majority of them even local self Government does not at all exist. There are few states whose Municipal Government will come to the level of the city Municipalities of British India. Elected majorities, non-official and selected Presidents and adequate financial help hardly characterise Municipal Administration even in the most advanced states. In a majority of them the Taluka Board and District Boards are conspicuous by their absence. Village Panchayats, Sanitary Boards exist in States which can be counted on one's fingers. There are no representative Institutions worth the name in most of the states except the few Southern States of India. There are not even two dozen states which have got advisory Councils. Such as they exist are called representative Institutions but they are no more than glorified Municipalities. The people in the States are not associated with the Government and they have no effective voice in the administration. Representative Instisutions like British Indian Councils, with elected majorities with the rights of voting on the Budget, of moving resolutions, raising debates on matters of general interest, and asking questions hardly exist in any of the States. There is no responsibility of the Executive to the people in any state in India. Irresponsible executive exists everywhere and the people of the state do not enjoy even the bare right of criticising the administration or ventilating their own grievances. There is no extension of free and primary education, no adequate expenditure on sanitation and moral well being of the masses, the service is not manned by qualified people and is often times recruited by outsiders, is illpaid, inefficient and often corrupt. The state is generally treated as a private estate by the Ruler, there is no definite Civil list, the Budget is not published, is not open to criticism, is not subject to independent audit, the Institution of Public Accounts Committee is unheard of, in these states. The people have got no voice in taxation, in legislation and administration of these states. This is the condition so far as the Political rights are concerned.

**No rule of law.**

Another most important factor of constitutional Government is the rule of Law. This does not exist in most of the Indian States

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barring a few rare exceptions. There is no liberty of person, no privilege of seeking a writ of Habeous Corpus, no equality of every one in the eye of law. Supreme arbitrary and discretionary power is exercised by the Ruler and Royal lawlessness is perceptible everywhere in the autoractic states. There is no security of property; and even liberty of conscience is not generally enjoyed in a state where the Ruler belongs to a different faith from that of his subjects. There is not a single newspaper worth the name in all the 700 and odd Indian States. There is no liberty of the Press, no freedom of discussion, no liberty of meeting. The state in its corporate capacity cannot be sued in the Municipal Courts in many of the Indian States. Martial law can be proclaimed like Alwar without any safeguards for the liberties of the people. The revenues of the state are expended at the sweet will of the Ruler and the Executive is not in any way responsible or even responsive to public opinion. Such is the abject condition of almost all the Indian States even though the subjects have been under the protection of the sovereign power and even though they owe allegiance to the same power. If really the terms of reference had been liberally interpreted by the Indian States Committee and if they had held an inquiry as to whether treaty obligations have been fulfilled by the Rulers or whether the feudatory Princes had discharged the obligations resting on them by reason of their feudatory position and if the people had been allowed to give evidence, abundant material would have been collected to substantiate all the statements we have made above. The present condition of almost all the States may be described in two sentences. There is no parliamentary Government or Constitutional Government in them. There is no rule of Law. Since the Indian States Inquiry Committee has refused to consider this question though it legitimately forms part of the first term of reference which is wide enough, all evidence disclosing the utter hopeless condition of the Indian States is shut out. And this arbitrary action of the Committee would never lead to any satisfactory solution of the problem connected with the first term of reference. This attitude of the Committee, therefore, has prevented material about the inefficiency and hopelessly backward condition of the States from coming before the public. There is no publicity of any kind in Indian States. The Administration Reports and Budget Estimates are not open

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to the Public. As there are no representative Institutions no proceedings of such bodies exist and thus there is no possibility of getting any information about the internal condition of the States. As these Indian Princes are the trustees of the people it is necessary to hold an inquiry how far they have discharged their duties satisfactorily during their management of over 75 years. The Indian Princes are claiming independence in their domestic affairs. Before they desire this concession it is obligatory on them to prove that they deserve this privilege by reason of the proper administration of their states. Such an inquiry is indispensable before any modifications are made in the existing relations of these states. It is obligatory on the Paramount Power to satisfy themselves by the evidence of those who are immediately concerned with this rule as to how far the Indian Rulers are entitled to claim larger measure of freedom in their internal affairs, and a proportionate relaxation of control of the Paramount Power. The interest of the people of the Indian States would be seriously prejudiced if any privileges are conferred upon the Indian Rulers without a thorough investigation of the manner in which they have managed their own states. "From the point of view of the duty of good Government, native rulers may be regarded as the agents or great hereditary officers of the British Empire at large for the administration of part of its varied possessions" (Tupper, Page 356). It is necessary to call upon these agents to render account of their management.

**Reign of law.**

It would be most relevant in this connection to note a fallacy under which the Indian Rulers are labouring at the present time. They have not understood what is meant by the Rule of Law, a phrase used in Constitutional Law. They are confounding it with reign of law which only means maintaining peace and order. Even under the most despotic Ruler, in all disputes between man and man in his state there is some form of justice, some mode of redress through the Courts. Whenever there is no conflict between such a Ruler and his subjects and when the dispute is interse between subjects alone differences are settled by the adjudication of the Courts of the state. This is not what is meant by rule of law. The bundle of rights which every citizen is entitled to enjoy under

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the rule of Law consists of the following rights :—Liberty of person, security of property, liberty of conscience, liberty of press, freedom of discussion, liberty of meeting, absence of arbitrary and discretionary powers in the Executive, perfect equality of every one in the eye of law, safeguards against martial law, control over finance and responsibility of the Executive to the people and representative institutions. If these privileges exist and if they are enjoyed by the people then and then only can it be said that there is a rule of law in the Indian States. Even the most enlightened of them do not seem clearly to understand the privileges which the people are entitled to enjoy under the rule of law prevailing under the Constitutional form of Government. In a speech which the Maharaja of Bikaner who was for many years the Chancellor of the Chamber of Princes, delivered in January last, he mentioned the essentials of good Government in the following words. "(1) A fixed and well-defined privy purse and a clear dividing line between the personal expenditure and that of the state. (2) Security of life and property by the employment of efficient and uncorrupt police. (3) Independent Judiciary. (4) Reign of law, including certainty of law, its uniformity and approximation with the laws of British India. (5) Stability of Public Service. (6) Efficiency and continuity of administration and (7) benificent rule in the interest of the general public." These essentials of good Government are no more than the policy generally followed by a benevolent despot. They do not at all include the privileges of the rule of law. A fixed privy purse is a sheer camouflage unless the people have the right to examine and criticise the state Budget and unless the items of appropriation are subjected to independent audit. Unless a real representative Institution is established with the fullest liberty to discuss the budget the talk of a fixed privy purse is sheerly meaningless. Similarly security of person and property can not exist unless there is rule of law. Unless the ruler or those in authority are amenable to the process of law security of life and property could never be enjoyed. The meaning of security of life and property is that such security is to be enjoyed even against the ruling power. How can this be secured unless there is Constitutional Government. Security of life and property may be enjoyed against all other

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persons even under benevolent despotism. But unless there is responsible government and unless this is the rule of law, it cannot be enjoyed against a despot. Similarly independent judiciary cannot exist unless there is supremacy of Parliamentary Government. Independent Judiciary under an autocratic ruler is a contradiction in terms. The Maharaja does not include the liberty of Press, freedom of discussion, liberty of meeting, absence of discretionery powers of the executive and the responsibility of the Executive to the people and the necessity of representative institutions as the essentials of his form of good Government. Good Government in this sense would never be a substitute for constitutional Government, for responsible Government. The essentials which the Maharaja thinks to be indispensable may suffice for a benevolent despot. Under benevolent despotism it is only the personal equation which secures good Government. If the Ruler happens to be pious, virtuous, god fearing people are saved from misrule. But if the Ruler happens to be otherwise with all these essentials it is difficult to enjoy Civil rights and constitutional liberties. This conception of the foremost leader of the Indian Princes clearly proves how even the best of them have failed to appreciate what is meant by the Rule of law and how they are confounding the reign of Law which means purely peace, order and Bandobast with the Rule of of Law which confers constitutional liberty on the people. What is needed in the present situation of the Indian States is not the maintenance of peace and order only. The stir in British India about responsible Government and about dominion status has materially affected the people in Indian States. Hopes and aspirations have crossed the frontier line and are pulsating the hearts of Indian States' people. Unless, therefore, rule of law is firmly established and unless representative Government is brought into existence it would be impossible to keep the people in the states contented. Adoption of the British Indian model of Government is absolutely needed to ensure the welfare of the people of the Indian States and it is the surest remedy against interference of the Paramount Power in the internal affairs of the States. Viewed in this light the government in the Indian States are far too backward and do not stand any comparison with the British Indian Administration.

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## The five points.

It was reported in the papers that the Government of India are making inquiries as to ( 1 ) which of the Indian States have set up Legislative Councils or similar bodies of a consultative nature, ( 2 ) which of the Indian States have regularly constituted High Courts more or less on the British Indian model, (3) which of the states have carried out the separation of the Executive and Judicial functions, (4) which of the states have a fixed privy purse and ( 5 ) which of the states have a regular graded Civil list of officials and pension and provident fund schemes.

If this inquiry had been public, Government would have been in a position to get correct information and to judge how far the Governments of the States approximate to the recognised standard forms of Good Government. The answers which might have been supplied to these questions by the Darbars may be vague, equivocal indefinite and may be absolutely untrue in fact. Each of these questions requires to be answered in the light of certain facts. As regards the first question it will be necessary to note if any elective system is in vogue, if so what is the proportion of elected and nominated members, what is the ratio between official and non-official votes, what are the powers of these bodies, whether they are advisory, whether they are deliberative, whether they are invested with powers of making legislation, sanctioning taxation, criticising the budget, raising debates and moving resolutions on general question of public welfare and whether the power of interpellation is given to them. Without these details vague information would be thoroughly useless.

Similarly as regards the second question it is necessary to know whether the ruler has divested himself of every power of review, revision and extraordinary jurisdiction, or whether he exercises the powers of a High Court himself, and if so with what personal legal equipment and if with the advice of the legal experts. In connection with personal rule the one fact which requires to be remembered for ever, is that an independent judiciary cannot thrive and prosper under absolute personal rule. Although sovereignty of Parliament and the rule of Law are the two outstanding features

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of the English Constitution, rule of law ultimately has to depend upon Parliamentary supremacy. Constitutional writers have therefore laid down that Parliamentary sovereignty has favoured the rule of law and that the supremacy of the law of the land calls forth the exertion of Parliamentary sovereignty. The dependence of rule of law upon the ultimate sanction of parliamentary supremacy has been made quite clear by text-writers. Unless therefore representative institutions of a real and substantial character are introduced in the States an independent judicary would not be an accomplished fact. Similarly as regards the third question in many of the States by reason of their very limited extent it will be difficult to bring about separation of judicial and executive functions. Further also unless the judiciary is independent the advantages of this separation would never follow. This third question therefore is dependent on the second, namely, that of an independent Judiciary. As regards the fourth question unless the State Budget estimates are available to the public and subjected to an independent audit, an ex parte statement of the Ruler would be entirely deceptive. Administrative Reports are made to order and they show one side of the shield. The other is entirely in the dark. Unless, therefore, there are Representative Institutions with powers of criticising the Budget, unless there is a public Accounts Committee in every State it would be impossible to correctly understand the expenditure which is incurred on the civil list by a Ruler. Items of expenditure are included under heads which have no relevancy whatsoever. The P. W. D. Department, as St. Nihal Singh once observed, very often means Palace Works Department, expenditure on which ought to be included in the Civil List. A mere statement of any proportion of the Revenue being allotted to the Civil List cannot be relied upon unless supported by an independent audit or by the criticism of a pupular vote of any representative institution in the State. As regards the fifth question the amount of pay given, the proportion of pension to the pay, the qualifications of the service, and its regulated character are the principal questions to be taken into consideration before any definite opinion can be formed about the efficiency of the State Service. If even these questions had been publicly addressed and the answers had been published subjects of Indian States would have shown the one sided character of the replies sent by the Durbars and would have convinced the Government of India that all that glitters is not gold.



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It is however to be regretted that the Government of India do not desire to take the people of the States into their confidence. All these questions bear upon good government which is a topic really covered by the first term of reference. The exclusion of the people of Indian States from the inquiry has made it thoroughly infructuous. The people of the Indian States, therefore, demand that a Royal Commission should be appointed (1) to investigate how far the Suzerain Power has discharged its duties of securing the welfare of the people of the Indian States (including citizen relations and privileged classes) who are under the protection of the Paramount Power and who owe allegiance to His Majesty the King Emperor of India; (2) to ascertain how far the feudatory States have faithfully carried out treaty obligations and the duties imposed upon them by their subordinate position to maintain good government in their States; (3) to investigate whether there exists any Parliamentary Government and the rule of Law in these Indian States; (4) whether the Indian Rulers have maintained efficiency of administration and secured the contentment of the people committed to their charge; (5) what the grievances are under which the people of Indian States are labouring by reason of autocratic rule and by reason of the neglect of duty on the part of the Sovereign Power; and (6) whether the Paramount Power has sacrificed the interests of the States in furtherance of Imperial policy and to advance Imperial interests.

After the lapse of nearly 125 years during which period the people of Indian States have been under the suzerainty of the British Government and under the protection of the same Government, they as loyal subjects are entitled to claim a thorough investigation of their position, their constitutional rights, their liberties and their guarantees. At a time when in their vicinity in British India such inquiries have been held from time to time and liberties of the people are being enlarged through a process of evolution and when promises are given for the progressive realisation of responsible Government in British India and when active measures are adopted in furtherance of the political ideal announced by His Majesty's Government is it unreasonable, is it improper to demand such an inquiry ? Imperial responsibilities enjoin the Paramount power, to hold such a full and comprehensive inquiry and to adopt remedial measures on the basis of the data supplied by the same.

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**The second term of reference**

Is to inquire into the financial and econmic relations between British India and Indian States. There is no disagreement between the rulers of the Indian States and the people of Indian States, as regards the loss sustained by these States and as regards the injustice that has been done to the States. Treaties and engagements clearly prove that the Paramount Power brought diplomatic pressure to bear upon the Indian Rulers with the avowed objects of promoting free trade, to abolish all export and import duties and inter-State Tariff barriers and when uniformity was thus secured the Government of India has been levying and appropriating the customs revenue which is rising by leaps and bounds. As the duty paid goods are consumed by the people of the Indian States in proportion to their numbers they are entitled by way of compensation to receive a proportionate share of the income of the customs revenue to which they are indirectly contributing. The Indian States were required to close their mints and introduce British currency. The States therefore are entitled to the profits of coinage and currency. The States ceded lands many times giving compensation at their cost to the owners for the construction of Railway lines. The income of Railways, Posts, Telegraphs, and Telephones–practically of all commercial services is also derived from the Indian States people in proportion to their number. States were obliged to abolish the manufacture of salt. They have also been required to reduce the porduction and cultivation of opium and Bhang. They are also obliged to restrict the consumption of these articles. Same has been the story of other articles of an intoxicating character as the manufacture and sale of country and foreign liquors. With the same diplomatic tact the British Indian Government has induced almost all the States to form their Excise Revenue in their favour. It will thus appear that the Indian States including the rulers and the ruled alike are made to suffer a great loss and are subjected to indirect taxation in these matters of common concern. It is therefore absolutely necessary that adequate refund of this income must be made to Indian States. Indian States' people, therefore, support the demand of the Princes in its entirety so far as the second term of reference is concerned.

The people of the Indian States, however, have to make one important suggestion to safeguard their own interests. If any

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relief on this score is wanted, if any refund of the income derived from these sources of common concern is allowed to the Indian Rulers, the people insist that there must be a guarantee that this income would be appropriated to public utility departments in the States. It is the people of the Indian States who are indirectly paying out of their own pockets this taxation into the British Indian Exchequer. If refund is allowed it must go to those who have contributed to this income. The Indian Prices have expressed a desire that the income from this source would be utilized for the advancement of the people of Indian States. But mere vague promises are of no use. So long as there is no responsible government introduced into these States guarantees must be required before any refund is allowed and furthermore a mchinery must be provided through which it would be possible for the people of the Indian States to enforce these guarantees. Unless this is done the people of the Indian States maintain that relief should not be granted if it is only to go to swell the income of the Indian Rulers to be spent on their own Civil List.

In this connection the people of the Indian States demand that they should have a voice in determining the policies bearing on matters of common concerns along with people of British India. They also insist that a share in the management of the Departments relating to matters of common concern should be allowed to the people of Indian States in proportion to their interests in these joint concerns. How joint cansultation and joint management can be brought about is a question of detail. In any inquiry to which in addition to the Indian Rulers and the people of Indian States would be made parties, definite proposals would be placed for discussion. It is, therefore, superfluous at this stage, to go into these details. When Responsible Government would be an accomplished fact in British India the Indian States hope and trust that this question would receive satisfactory solution at a Round Table Conference of the Representatives of British India and Indian India. Beyond insisting upon the guarantees mentioned above and upon the machinery to make these guarantees effective time has not come to make any further proposals in this respect.

**Suggestions.**

So far as intervention is concerned the Princes are chafing at this. They have entered emphatic protest against this intervention.

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They further assert that their treaty rights are violated by the Political department. They, therefore, are dissatisfied with the Political Department which is connected with the Indian States. So far as the people of the States are concerned they also are dissatisfied with the policy of the Paramount Power. They complain that the policy of non intervention is pursued on wrong principles.

It is, therefore, high time now to revise this policy and overhaul the whole system. It would not stand to reason for a minute that the Princes should claim independence and removal of all control over them. They have to submit to the control of a Paramount Power or to the control of their own people. There is no third course open. If the Indian Princes establish responsible government within the limits of their States and thus consent to substitute the control of the people in place of the control of the Paramount Power, there would be no necessity of interference from outside, whether under the present constitution or whether even under the Swaraj constitution of the future or even under a federal form of Government. The Indian Princes can enjoy perfect immunity from outside interference in their internal affairs if they surrender autocratic powers if they consent to rule as constitutional monarchs and if they introduce responsible government (as understood under constitutional law) within the limits of their States. This is the most effective remedy, to use Lord Cranbrook's words against interference from outside.

**Mandates Commission.**

If, however, the Princes are not willing to introduce responsible government, we invite the attention of the Paramount Power and of the Indian Rulers to an eminently practical suggestion which has bsen made by the "Servant of India" in its issue of 19th April 1928 for the interim period. We quote this below :—

"The right of the suzerain power to intervene in Indian States affairs on behalf of the subjects with a view to prevention or correction of maladministration of an extreme character is unquestioned and unquestionable. The Princes no doubt claim internal autonomy and sovereign rights but this autonomy and these rights are subject to the limiting condition that in cases of gross misrule the British Government shall step in and take all the necessary steps to end the prevailing misrule. Only His Exalted Highness

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the Nizam dared in recent times to challenge this power vesting in the suzerain Power and came sorely to grief over it. But the exercise of this undoubted power leaves much to be desired, whether in the interest of the rulers or the ruled. The intervention is spasmodic and ill regulated, and the justification for it not always apparent and seldom attempted. The result is that there has never been a case of intervention but has given rise to the suspicion that a ruler was deposed or made to abdicate or reprimanded, not really because he was oppressive to the people, but because he was not subservient enough to the British Government. The suspicion can never be dispelled, for the Government will never publicly assign any reasons for the action they take and if they do, will not make known all the attendant circumstances and publish evidence in support of their statements. And thus even in cases where, if all the facts were known, the justification of intervention would be complete, the Government never receive the support of public opinion. It is therefore of the utmost importance that the policy of intervention should follow a settled course, and no action should be taken against any ruler until his misdeeds are brought home to him. For this purpose it is necessary that the present method of secretiveness should be definitely abandoned and that everything should be aboveboard, the necessary records being made available to him. The ruler should of course have an opportunity of defending himself before a tribunal, whatever that be. The ruling Princes are certainly entitled to urge this before the Butler Committee and we believe that the Committee too will be inclined to view their plea with favour. We for our part would unreservedly support such a claim. Only we would emphasize what perhaps the ruling Princes would like to relegate to the background, that the subjects of the States, in whose interest the action is avowedly taken, should have as full an opportunity of leading evidence against the Princes as the Princes have of defending themselves and that therefore the records should be accessible to the people just as much as to the Princes.

"We would suggest that the machinery for inquiry into alleged cases of misrule of the Princes be modelled on that device by the League of Nations for seeing that the terms of the mandates are not transgressed by the mandatory powers. Some modifications may be found necessary in this procedure, but broadly it may be

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the procedure adopted by the League. The essentials of the general oversight which the League exercises over the administration of the mandated countries consist in the following: (1) The League calls for an annual report from every mandatory power, which is committed for critical examination to an expert body called the Mandates Commission, the majority of the members of which must belong to non-mandatory countries, and no member of which can be a servant of any Government, so that their impartiality may be insured. (2) The Commission examines the report in the presence of a representative of the mandatory power who is then subjected to a stiff cross-examination. (3) The Commission's report goes thereafter to the Council of the League for consideration along with such observations as the mandatory power may think fit to make. (4) The Council thereupon arrives at its own conclusions, which are debated in the Assembly, in the presence of the representatives of all the powers in the world. (5) The people in the mandated countries and even strangers have a right of petitioning the Commission, such petitions being forwarded by the mandatory powers with their own remarks to the Commission.

"The British Government has of course behind its decisions in regard to Indian States far stronger sanctions than the League has behind its, and yet, on account of the system of open discussion which it has adopted, it is able to exercise a more restraining influence on the predatory instincts of the mandatory powers than the British Government has been or will ever be on the autocracy of the Indian Princes under the present system. The points to be noted in this connection are the following :—(1) Certain essentials of good government ought to be laid down, and no departure therefrom permitted. These essentials should be of the simplest character, something like those mentioned by the Viceroy in his note prepared for the Chamber of Princes. *Sourashtra* has published the note *in extenso*. These essentials would correspond to the stipulations of the mandates ensuring that the government of the backward peoples in the mandated countries shall not give rise to abuses and evils which have resulted in the past. (2) Every State should be required to submit a report on its administration to the Government of India, the report being drawn up with particular reference to the essentials of good government laid down. (3) The Government of India should neither pigeonhole the

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report, nor proceed to take action, but refer it for detailed and impartial examination to an expert body, connected neither with the Government nor with the States, but independent of both. (4) This body, the States Council, let us call it, should discuss the report in the presence of the duly accredited representative of the State, who would offer any supplementary information that might be desired. (5) The Council would also be in possession of the debates in the representative assembly of the State and all other relevant and useful material and would question the representative on all this material and on any other question it may think fit. (6) The pepole of the State concerned and any others would have the right of laying their complaints against the State before the Council through the State authorities, who would of course be bound to forward them to the Council, with their own observations thereupon. (7) The Council, where necessary, may visit the State concerned and carry on an inquiry on the spot, and may have its own agents in the various States, as has been proposed for the Mandates Commission. (8) The relevant documents relating to the charges or alleged grievances should be made avialable to the authorities of the State and the people (9) The Government should then take the report of the Council into their consideration and decide on the action to be taken. (10) If the action is felt to violate, on the one hand, the rights of Prince and, on the other, the obligations of the suzerain power, an appeal should lie to a specially constituted tribunal, and facilities for such appeal be assured to the people equally with the Prince concerned.

"This procedure will be fair to all the three parties concerned and will be to the advantages of all. But only two of them, viz. the British Government and Indian Princes receive attention at present, and the third and most important of them, viz. the people belonging to the States, are entirely ignored! No solution, however, would be satisfactory or enduring which is merely the result of diplomatic negotiations between the rulers in British and Indian India and which does not base itself on the welfare of the masses, whose interests after all should receive primary consideration.

"In any case the presence of rulers themselves on any Council designed for the purpose of exercising supervision over their administration is outlawed by every canon of political philosophy."

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We, therefore, recommend this proposal based on the analogy of international procedure of the permanent mandates commission to secure the welfare of the subjects of the Indian States.

**Laissez Faire Policy must be abandoned.**

Indian States, as the authors of the Montford Report have stated, are in all stages of development—patriarchal, feudal or more advanced, while in a few are found the beginnings of representative institutions. The process of infiltration has been going on but has not brought about uniform standard of development in all of them and this is due to the neglect of the Paramount Power. Was it not the duty of the Paramount Power as the supreme and sovereign authority in the land, to accelerate the speed of development to the recognised standard of good government ? Whatever that may have been in the past the forces that are working in British India cannot be allowed to spend themselves on the borders of the Indian States. It is not wise to allow natural forces to work the solution. The change in the Indian States must come not merely by the permeation of Ideas (as erroneously desired by the authors of the Montford Report) but as a direct result of constitutional changes in British India. Such a policy is further absolutely necessary if ever this country is to attain a federal form of government as Sir Frederick Whyte has shown in his brochure. He has observed that the preamble of the Government of India Act contains the finger index of federation. It is necessary that active steps must be taken to approximate the forms of Government in the Indian States to those prevailing in British India. Sir Frederik Whyte observes that section 33 of the Government of India Act includes not only British India but the whole territory of Indian States. He also observes that the political changes of which the act is a part have affected the interests of the Indian "States and will affect them still more as time goes on." "Still more evident does the connection become when the legislature passes an act to raise customs duties, or the Steel Protection Act. Moreover, the action of an Indian State may seriously affect the excise policy, to take but one notable instance among many of its neighbours whether they be British Provinces or other Indian States. Here again the political advance of India has placed in the incubator another problem which cannot be shirked at the next examination of the constitution. If India is about to move towards the goal



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of federation the Indian States may well claim a share in the discussion and a place in the eventual federation." ( India a Federation, pp. 313–14 ) The authors of the Montford Report have also envisaged the future to consist of sisterhood of nations in which the Indian States are also included. Wise statesmanship, therefore, requires that the *Laissez faire* policy towards Indian States must be abandoned. An active policy of reforming the Government and the Indian States must be deliberately pursued. The Indian Princes should be induced by diplomatic pressure to adopt the ideal contained in the announcement of 1917. They should also be encouraged by every possible means to adopt measures for the progressive realisation of responsible Government in their States; and until this consummation is reached during this transitional period a body corresponding to the Permanent Mandates Commission should be established as suggested by the learned writer of the "Servant of India."

**Deterioration for a century.**

Being under the British trusteeship for over a hundred years the positon of the Indian States' people has deteriorated in every respect—socially, morally, economially and politically. They have not advanced an inch compared with their brethren in British India. Autocracy has brought about complete degeneration in Indian States. The people in the States do not enjoy any political rights and in the narrow sphere of the State limits their growth has become stunted and there is hardly scope for moral and material advancement. There is a tendency to migrate from Indian States into British India to find out better opportunities in life and better scope for their intellectual activities. As regards the Princes under the protection of the Paramount Power they are secure in their States and are squandering the resources of the State for the irpersonal comforts and are utterly neglecting their responsibilities to their people. That this result should follow under British trusteeship is a sad irony of fate. But the events in British India are leaving their impact on the Indan States. The means of communications, and the Press and platform in British India have awakened the political consciousness in the Indian States' people. The representative institutions, the self-assertion of the British Indian people and the association of these people with the Government dominated by an alien bureaucracy, have created new hopes

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and aspirations amongst the people of the Indian States. The wave of self determination and democracy which swept over the the whole world as a result of the Great war has not left the States untouched. The announcement of responsible government in British Inda and the consequent political stir has vividly affected the intelligentia in the States. The Swarajya movment in British India has created new faith in the States' subjects and has awakenl ed in them intense desire for political emancipation from the thratdom of autocracy. The result of these forces therefore is apparenon the face of the Indian States. The people have begun to claim the blessing of responsible Government within the States limits. Ideas of good Government have undergone material alterations and nothing short of responsible Government would now be acceptable to the peole of the Indian States. It is, therefore, high time for the Indian Princes and Paramount Power to tackle this problem with shrewdness and political sagacity. What may have satisfied the Indian States' subjects at the end of the last century would entirely fail to give satisfaction to their craving to take part in public affairs and their thirst for political rights. It is therefore absolutely necessary for the Indian Rulers to envisage the future in a far sighted manner and with broad statesmanship. The only way in which the Indian Rulers can discharge obligations to their subjects and also promote their interest is by faithfully following the example of His Majesty the King Emperor of India. The announcement of 1917 is a beacon light for all Indian Rulers to follow and the acceptance of the ideal of responsible Government will ensure the continuance of their familes, their prestige, position and honour, in spite of the influence of growing democracy. The experience of the Great War has also demonstrated that constitutional Monarchy need not be afraid of any revolutionary changes and it is functioning successfully under the responsible form of Government.

### Responsible Government very easy in States.

So far as the practical application of the form of responsible Government to the Indian States is concerned responsible Government can be established most easily and without the slightest delay in the Indian States. In British India the interest of the white man comes into conflict with every stage of the progressive reliasation of responsible Government. No such insuperable

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difficulty confronts the Indian Rulers. The only difficulty is of inducing an Indian Ruler to settle once for all his civil list. If this is accomplished there would not be the least occasion for any conflict between the Ruler and the ruled in the Indian States. For all the ills which proceed from autocratic rule the only sovereign remedy is responsible Government. This form of Government will for all time to come be for the benefit of the Royal families, it will maintain their dignity in tact and enable the ruling Princes to serve their own people in an honourable and self respecting manner. We therefore, hope that the Indian Princes will realise that the only way of securing the contentment of the subjects of Indian States is by declaring the ideal of responsible government and in trying honestly and faithfully to realise this ideal by progressive stages. Nothing short of this will satisfy the subjects. If only, therefore, the Indian Rulers surrender their autocratic powers and practise the virtue of self denial and are contented with a decent civil list there is no reason why the problem of Indian States could not be easily solved.

### Are the princes really Loyal ?

The Indian Princes have been proclaiming their loyalty to the crown in season and out of season. What act would be considered more loyal than faithfully following in the footsteps of His Majesty and pursuing the ideal openly preached and proclaimed by the same sovereign power. If really the Princes have not the enlightened sense of national patriotism, their mere loyalty to the person of His Majesty is absolutely of no consequence. It is the bounden duty of every citizen of the Empire to be loyal to the person of the Crown. But there is a higher sense of loyalty actuated by national patriotism which these Indian Princes must cherish and must visualise. It would be most relevant in this connection to bring to the notice of these Indian Princes what His Royal Highness The Prince of Wales observed on the occasion of the splendid welcome given to him at Guildhall on his return from his Canadian tour in 1919. He said, "The people in the old country must understand that the patriotism of the Dominions is national patriotism and not merely loyalty to Great Britain. It is loyalty to the British Institutions, it is loyalty to the world wide British system of life and Government and it is above all loyalty to the British Empire of which Great

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Britain like the dominion is only a part." On the same occasion be added, "Our Empire implies a partnership of free Nations living under the same system of law, pursuing the same democratic aims and actuated by the same human ideal. The British Empire is something far grander than an Empire in the old sense of the term and its younger nations Canada, Australia, New Zeland, South Africa and India are now universally recognised as Nations by the fact that they are signatories to the peace treaties which they fought so magnificently to secure. Now amongst these new nations of the British Empire recognised as signatories at Versailles Indian India occupies a special position. Like the dominions, she played a gallant part and we owe much to her soldiers and Government and men for all they endured for the common cause." The Indian Princes have been talking of their war service with unique pride. The foremost of them was present on the above occasion. Is it not therefore imperative on these Indian Princes by reason of their elevation to this partnership of free nations to show their undoubted loyalty to British Institutions and to the British system of life and Government? And what else is the distinguished British Institution and British system of Government than the form of responsible Government firmly established in the United Kingdom and the Dominions overseas and also declared as the ultimate goal of British Indian Administration. Self interest, political wisdom and enlightened sense of loyalty make it imperative for the Indian Rulers to adopt responsible Government in their States. Whatever the Princes may or may not do the Indian States' people emphatically demand responsible Government in their respective States.

### A Comparison.

It is most interesting to compare the positions of the Rulers of the Indian States and the people of the Indian States ever since the time they have been brought under the paramountcy of the British Government. The Indian Princes have enjoyed protection of the British Indian Government which is also extended to the people of the States from foreign invasion and internal commotion. Both the rulers and the ruled in the Indian States have been perfectly loyal to the British connection. The people of the Indian States however have to bear the weight of the double allegiance. They owe allegiance to their rulers and to His Majesty the King Emperor of India. Tupper has very clearly described the double

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allegiance of the people of the Indian States. He maintains, "Allegiance is the obedience rendered by a subject to a sovereign. If the sovereignty is divided the obedience must be divided and in like proportion, correlative with the legal duty of allegiance on the part of the sovereign. We extend protection to the subjects of the Native States first as against gross misrule, secondly as against all enemies of the British Government by our general measures for the defence of the Empire and thirdly in our ordinary relations with foreign powers because we give the subjects of Indian Native States in foreign countries, the same protection that we give to Native Indian subjects of Her Majesty" ( Our Indian Protectorate, Page 354 ). In spite of this heavy weight of allegiance it is a matter of singular misfortune that Indian States' subjects are treated as aliens in British India under section 2 of Act III of 1915 amending the Foreigners' Act III of 1864. The Indian States subjects owing allegiance to His Majesty are protected by His Majesty's Government even in foreign territories but they are treated as aliens and are rendered liable for expulsion or imprisonment in British India. This is a very sad fate and thoroughly unjustified. The Indian States' people, therefore, demand that this obnoxious piece of legislation must be done away with or a new measure must be enacted, treating the people of Indian States not as aliens but as British citizen, in British India. During the time of the Great War the Indian States' people cheerfully bore all the burdens, gave money to the various movements of administering relief to the wounded and disabled people. They contributed to the man-power and made sacrifices to the same extent along with their rulers. The only pity of it is that the services of the Princes have been recognized and those of the people of the States have been altogether ignored simply because the rulers were the medium through which every kind of assistance was conveyed to the Paramount Power by the people of the States. If therefore any consideration is to be shown to those who helped in great crises the people of the States are entitled to share it along with their Rulers in equal proportion. We have described the similarity between the two. The differences are equally significant.

**A contrast.**

(1) The people of the Indian States were gratified with the announcement of His Majesty declaring responsible Government

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as the Political ideal of India including British India and Indian India. The rulers of the Indian States however have not shown their appreciation of this ideal and none of them has made an open declaration that he is prepared to accept this ideal and to follow it faithtully within his state and adopt such measures as may be necessary for the progressive realisation of this ideal. (2) The people of Indian States have been complaining that the Political Department dealing with the Indian States is irresponsible and irresponsive. They also suggest that it should be made amenable to the criticism of the Central Legislature and should be responsidle to the same. The Indian Rulers by their scheme desire that this Department should be a close preserve for the alien bureaucracy and should remain as irresponsible and as irresponsive as it is now so far as they are concerned. (3) The people of Indian States have every sympathy with the reforms in British India and they centre their hopes of liberation and political salvation upon the establishment of responsible government in British India as a self-governing Dominion of the British Commonwealth of Nations. The Indian Princes are feeling nervous about the future Swaraj Government and apprehend that their privileges wuld be encroached upon. (4) The States' people never wish that the British Indian Commonwealth should be deprived of the control of the British Indian Army. They entertain absolutely no doubt about their safety and they feel as secure about their protection under the future Commonwealth as they are under the present government of India. The Indian Prices are asserting that the control over the British Indian Army should not be handed over to the Democratised Constitution in British India and should be retained under the control of the British Government for their protection and for safeguarding their treaty rights. (5) The people of the Indian States feel proud at the prospect of the future Government of India being administered by the agents of the people responsible to the people and are quite willing to recognize the swaraj government as the Paramount Pewer. The Indian Princes on the other hand desire that the agents of the Crown should rule over them for ever and in the same irresponsible manner as is the case today. They insist that the Political Department should be taken away from the control of the future government and they urge that the should be entirely dissociated from the future commonwealth and

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they are unwilling to recognise the future government as the representative of the Paramount Power. They want to deal with the future Commonwealth on a footing of equality and not in a position of subordinate alliance as is the case today. (6) The people of Indian States desire union with British and would like cheerfully to be units of the federal Government of the future. The people of Indian States entertain absolutely no suspicion about their brethren in British India. The Indian Princes through their legal advisers and supporters have betrayed distrust about British Indian people and are afraid that their position and prestige and ijjat and honour would suffer by any contact with self-governing India. (7) The people of Indian States feel delighted that their own brethren with all the affinities of historical, religious, sociological and economic character are being raised to the honurable position of citizens of a self-governing Dominion and they hope and trust that through

**The Demands of the Indian States.**

In conclusion the demands of the States' people are summarised as below :—

1. They demand that a Commission should be appointed to consider how the sovereign power have discharged their duties towards the subjects of Indian States ; how they have enforced the duties imposed upon the Indian Rulers by express treaty undertakings and how the sovereign power has prejudiced the interest of the States with a view to further imperial interests and safeguard imperial policy.

2. They desire that the political department should be more responsible to the Central Legislature and should be Indianized.

3. They demand that the mistaken policy of non-inter vention should be abandoned ; one sided protection should not be given only to Rulers. Protection should be given also to the subjects to secure good Government ; or in the alternative the paramount power should not interfere either in the interest of the Ruler or the ruled in a case of conflict arising from misrule.

4. The demand that the Paramount Power should exercise their duties, and enforce obligations of the princes, and as both of them exist on express treaty rights and independently of them,

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to secure the welfare of the citizens of the States, the relations of the Rulers and the guarantee holders of the suzerain power.

5. They demand that the announcement of 1917 should be made applicable to the Indian States; that the Paramount Power should make every effort to induce the Rulers to accept this ideal and should require them to make honest endeavours for the progressive realization of this ideal.

6. They demand that until responsible government is established in the States a Commission like the Permanent Mandates Commission should be instituted to prevent misuse of the powers wielded by the rulers.

7. They demand that the rule of Law must be established in every state securing to the people as their birth right, liberty of person, security of property, liberty of conscience, liberty of the press, freedom of discussion, liberty of meeting, perfect equality in the eye of law of both the Rulers and the ruled, absence of arbitrary and discretionary power in the authority, absence of royal lawlessness, guarantees against martial law, control over finance, responsibility of the Executive and representative institutions.

8. They demand that the civil list in every State should be fixed regard being had to the wants of the Ruler to his dignity and honour and that any extra expenditure should require popular consent.

9. They demand that they should be given a share in the indirect taxation which they are contributing to the British Indian Exchequer. They demand that if any relief is granted to the Indian States it must be appropriated to the public utility departments of the States and that a machinery should be established through which the people of the States can enforce the Rulers to appropriate this relief to the advancement of the people.

10. They further claim that in any financial and economic adjustment between the Indian States and British Indian Government they should have a voice in the policies pursued as regards matters of common interests and that they should share in the management of departments concerning them.

11. They demand that as the subjects of Indian States owe allegiance to the King Emperor of India they should not be treated as foreigners in British India; that even in British India they are



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entitled to protection and rights of British subjects as enjoyed in Foreign contries.

We are however aware that there is a school of thought which maintains that there should be absolutely no interference in the affairs of Indian States by the alien bureaucratic government, however gross and however serious misrule may be. The advocates of this school urge that people should tolerate the wrongs inflicted by a ruler and should put forward their best endeavours to move the ruler to a sympathetic consideration by their keen sufferings. We have every respect for those who believe in the intense moral virtue of suffering. We have however to submit that such high standards of self effacement and self annihilation are not to be found in the common run of the people. No sane man would desire alien interference if it could be possibly avoided. But in the present helpless condition or the Indian States brought about by double despotism arising out of double allegiance there is no recourse left for the dumb and oppressed seventy millions of Indian States but to appeal the Paramount Power with whom rests the ultimate responsibility to secure the welfare of the Indian States' people and who have deprived them of their common law right of rising in revolt against the ruler who rebels against law. If, however, responsible government is established in Indian States no subject of an Indian State would even remotely cherish the idea of intervention from outside. Either the Paramount Power must take prompt and immediate measures to put a stop to misrule and adopt remedial measures or people in the States must be entrusted with political power which is enjoyed under responsible form of government. Unless the Executive becomes responsible to the people there is no hope of redemption for the people of Indian States. Either the rulers must behave as constitutional monarchs or must surrender autocratic powers and introduce responsible government. The Paramount Power must be keenly alive to its Suzerain responsibility for the welfare of the people who owe allegiance to it and to whom protection is guaranteed. It is not an act of mendicancy to appeal to the Paramount Power for redress of wrongs committed by the autocratic rulers but it is a birthright of the people of Indian States to invoke the power which guarantees them protection. We, therefore hope and trust we will not be misunderstood when we desire the

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Paramount Power to discharge the duties which they have undertaken by reason of their suzerain position.

In conclusion we wish to state that in this memorandum we tried to formulate our demands for the reform of State Administrations. We have not in this memorandum referred to what is required of the people of the Indian States to secure freedom in their present woeful condition. It is an enternal truth that freedom must be won by those who are anxious about it by their own exertions. Outside forces will only accelerate the speed. But the movement must gather strength within the limits of every state. The Indian States are in various degrees of development. Some are hopelessly backward, some steeped in mediaval darkness, some are patriarchal, very few maintain good government and none possesses responsible government. The modes of agitation may vary according to the local conditions and environment in each state. From petitioning and memorials to direct action in the form of civil disobedience it is open to all to follow their modes of agitation who are anxious to enter freedom's battle which though oft baffled is ever won. It is superfluous to state that the measure of success would depend upon the intensity of our feeling, upon the readiness for suffering and upon the sacrifices which all of us are prepared to make. Agitation in Indian States must be carried on by the people themselves. It is indispensable before we can hope to achieve appreciable suceess in our efforts. As however the present occasion requires the placing for our demands before those who have the power to concede them or those who can influence the granting of the same, we have not thought it advisable to dilate at any considerable length upon the necessity of selfhelp and intensive agitation in the Indian State. This we consider as a *sine qua non* of political advancement in every country.

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# TREATIES & POLITICAL PRACTICE.*

The Indian Princes are claiming that their relations are directly with the Crown, that their status is that of 'politically separate and constitutionally independent units of this Indian Empire ' and that they are sovereigns in their internal affairs on the strength of the treaties concluded with them. Nobody desires that these treaties should be thrown to the winds or treated as mere scraps of paper. But what is really to be deplored is that, without trying properly to understand the treaties or their provisions, inferences are sometimes drawn from mere catch-phrases and the cry is raised of 'treaties in danger.' The Princes are setting up claims on the basis of treaties which cannot stand a moment's scrutiny. The task of reviewing all these treaties would require considerable space. We, however, propose to deal with the treaties of the more important Princes who at present boss the show of the Nerendra Mandal viz. the Maharajas of Bikaner, Alwar, Patiala and Jamnagar. There are 108 members of the Chember of Princes and their treaties undoubtedly deserve serious attention. An important consideration which requires to be born in mind is, as stated in the Montford Report, that the treaties must be read and interpreted as a whole and in the light of the relation established between the parties not only at the time when a particular treaty was made but subsequently. The conditions under which the treaties were executed have undergone material changes and the literal fulfilment of the particular obligations which they impose has become practically impossible. It is further necessary that along with the treaties, political practice, which is followed in connection with these States, must also be carefully scrutinized. Lord Reading in his famous despatch to the Nizam pertinently and authoritatively stated that the sovereignty of the British Crown is based not only on treaties and engagements but exists independently of them. Political practice, therefore as observed in the case of the Indian States, is a material factor in construing the position of the Indian States in the body politic. It shows the limitations which are imposed upon the right of sovereignty which is claimed by the Indian rulers in their domestic affairs. We are basing our conclusions upon the treaties as published in the authoritative work

* This appeared in the form of articles published in the *Servant of India* in the issues of 1,8,22. March 1928.

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of Mr. Aitchison. If there are any treaties which are not included therein but which may be in existence in the confidential files of the Government and the States, we are open to correction and we shall feel obliged if the rulers correct the statement of facts narrated below.

## (I) BIKANER.

The first treaty which was concluded with Bikaner was in the year 1818 by the East India Company through Mr. Charles Metcalf to whom full powers were granted by the Marquis of Hasting, the then Governor General of India. It was a treaty imposing subordinate co-operation on the Maharaja of Bikaner, and the British Government on their part engaged to protect his territories and reduce his rebellious subjects to obedience. The Maharaja and his heirs and successors were not to commit aggressions on any one and if by accident any dispute arises with any one it shall be submitted to the arbitration and award of the British Government. The Maharaja was bound to furnish troops at the requisition of the British Government according to his means and agreed to extradition treaties and to the levy of a scale of duties on goods passing through his territories from Kabul to India. The Maharaja in 1879 agreed to a treaty for not manufacturing salt in his territory. In 1889 the Maharaja ceded to the British Government full and exclusive jurisdiction of every kind over the lands in his State occupied by the Jodhpur-Bikaner and Bikaner-Bhatind Railways system. He ceded similar jurisdictions as regards the Southern Punjab Railway. In 1893 the Maharaja entered into an undertaking to abstain from coining silver and copper in his own mint. These treaties were concluded by the Governor General of India and were negotiated under the authority of the Government of India. They establish the position of subordinate co-operation of the Ruler with the British Government. The Maharaja agreed not to enter into any negotiations with any Chief or State without the knowledge and sanction of the British Government. This condition, coupled with the condition of ceding jurisdiction, restricting transit duties, abolition of salt manufacture and the closure of the mint, unmistakably prove the subordinate position of the State, and the pretensions of the Maharaja to be regarded as a politically indenpendent unit of the Indian Empire are thoroughly untenable. Every autonomous and independent Ruler has a right to manufacture any goods and salt is one of such commodities. Coinage is an insignia of sovereignty and the undertaking to close the mint proves only the dependent feudatory position of the Bikaner State.

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As regards the political practice the history of the State is interesting. In 1829 the Maharaja of Bikaner in violation of his treaty engagement invaded Jaisalmer, but the British Government interfered and settled the dispute. In 1830 the British Resident was asked by the 'Chief' of Bikaner to send a British force to assist him in reducing some rebellious nobles. The Resident complied with the request, but he was severely reprimanded by his superiors and it was laid down by the Government that the Chief of Bikaner (it is to be noted that the Ruler is styled as the 'Chief' and not as the 'Maharaja') had no right to call on the British Government for military aid against his disaffected subjects at any future period. They warned the Resident that military aid should never be given to Native States for the suppression of internal disturbances except under the specific authority of the Government. In 1861 the ruler of Bikaner committed outrages on subjects of Jodapur and he was reminded of his treaty obligations. In 1871 the exorbitant levies of the Maharaja over his subjects gave rise to much discontent, with the result that some of the Thakores of his State had to take refuge in British territory. A British officer was deputed to Bikaner in 1871 to enquire into the differences between the Ruler and his subjects. The Maharaja promised to reduce his expenses and to improve his administration by appointing a Council. These promises were not fulfilled and misgovernment continued. Maharaja Sardar Singh, who was then ruling, died in 1872 and a boy was adopted and the administration was temporarily carried on by a British Officer assisted by a Council. The young Maharaja was entrusted with ruling powers in 1873 but maladministration and the discontent of the Thakores did not abate. The Maharaja Dongar Singh was repeatedly pressed to bring about reforms but maladministration was rampant and led the nobles of the State to rise in open rebellion against the ruler. It became necessary to march a small British force into the country to support the authority of the ruler and the Thakores were subdued without much trouble. This incident happened in 1883 and has a significant moral. When there is acute discontent and the subjects rise in revolt the British Government interferes and supports the authority of the ruler with its military force. It suppresses revolt, restores order and introduces reforms. This was done in Bikaner twice, once in 1830 and again in 1883. With a view to avert this direct interference in suppressing revolt and in restoring order and good government, the British Government warned the rulers of Bikaner against allowing a recurrence of similar trouble to take place in future. But these

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warnings were not heeded, and the British arms had to support the successive rulers of Bikaner on their *gadi* and restore order. Herein lies the real crux of the situation. The Indian Rulers want to enjoy independence in their internal affairs. But this they cannot enjoy unless they maintain good administration and refrain from goading their people to desperation. Can they maintain their dynasties and *gadis* against the oppressed subjects in the absence of the protection of the British Government? The anwer is plain. The price of this protection is the maintenance of good government and carrying on the administration in such a manner as not to drive the people to discontent and breaches of the peace. The Indian Princes, therefore, cannot claim sovereign rights even in their domestic affairs. The British Government has the right to interfere whenever peace and order are likely to be in danger by reason of misrule; and this is what is conveyed by the expression 'sovereignty exists independently of treaties.' Lord Curzon once observed: "Security cannot be repaid by license or the guarantee of rights by the unchartered exercise of wrong." The Indian Princes sometimes chafe at the interference on the part of the British Government in their internal affairs on the ground of their supposed independence and sovereignty. This claim is not however warranted by their so-called treaties. The political practice in regard to Bikaner clearly disproves such a claim and we would request the Maharaja to enlighten us as to what treaty supports his claim of direct relations with the Crown or the theory of his political relations being with the British Government independently of the Government of India or of the Governor-General and of the Foreign and Political Department.

## (II) ALWAR.

Till the middle of the last century Alwar owed allegiance to Jaipur and Bharatpur. Its first relations with the British Government were formed in 1803 when Maharao Rajah Sawaee Baktawar Singh Bahadur was ruling over the State. The Maharao Rajah then accepted the protection of the British Government and an offensive and defensive alliance was concluded. Alwar was to pay no tribute but its troops were to co-operate with those of the British Government. In 1811 the Maharao of Alwar interfered with the affairs of Jaipur and engaged with a Pathan adventurer to establish his minister on Jaipur gadi. Although an obligation to form no such engagement without the knowledge and consent of the British Government necessarily resulted from the nature of the relations subsisting between the two Governments, it was not specifically

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included among the provisions of the treaty. A fresh engagement was therefore made in 1811 expressly prohibiting political intercourse with other States without the cognisance and approval of the British Government. This established beyond doubt the subordinate position of Alwar. After the death of Baktawar Singh without any issue in 1850 disputes arose as to who should succeed him. Maharao Banu Singh seized the reins of administration and imprisoned Balawant Singh who was an illegitimate son of the late ruler and to whom the powers of administration were awarded as a result of the compromise arrived at. By an engagement concluded in 1826 Banu Singh was required to agree to release Balwant Singh and make a suitable provision for him. In 1862 adoption sanad was granted to the State. In 1865 the Maharao agreed to give land required for railway purposes free of cost and to compensate the owners. In 1867 an extradition treaty was concluded between Alwar and the British Government. In 1873 British copper coins and in 1877 British silver coins were introduced in the State, and the State agreed to abstain from coining silver in its own mints. In 1879 Alwar was required to suppress the manufacture of salt within the State and to abolish all duties on all articles except intoxicating drugs. In 1902 Postal unity was agreed to, and in 1904 exclusive jurisdiction was ceded to the British Government over State land occupied by the Railway. In 1904 rules for the guidance of the police in the State were introduced and in 1906 made permanent. The history of these treaties conclusively proves the subordinate position of the Maharaja of Alwar, not only in matters relating to intercourse with other States but even in such internal affairs as the manufacture of salt, the minting of coin, jurisdiction over land occupied by railway and even in the administration of Police, the State administration was controlled by the British Government. All these treaties were concluded with the Governor General through the Foreign Political Department. The Maharaja's pretensions, therefore, to treat his state as a politically independent unit, quite separate from and independent of the Government of India, are devoid of any foundation. His relations are not directly with the Crown or the British Government, but with the Government of India which is a subordinate branch of the Home Government and is controlled by the Secretary of State for India who is responsible to Parliament. In the face of these facts, the high-sounding talk in which the Maharaja is accustomed to indulge so often appears ludicrous.

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As regards political practice, the history of Alwar clearly shows that the Maharaja is not entitled to claim sovereignty even in domestic affairs. In 1812 Baktawar Singh took possession of certain territory belonging to Jaipur. This was a direct violation of the engagements made by him. A force was moved against him, the usurped territories were returned to Jaipur and he was required to pay Rs. 3 lakhs as compensation for this expedition. Again in 1826 the Maharao, of Alwar, Banu Sing, was involved in an attempt on the life of Ahmad Bux Khan, a leader of the Mahomedan faction in Alwar, which was supporting the cause of Balwant Singh, the competitor to the gadi of Alwar. The crime was traced to the Durbar and a British force was advanced on Alwar and the Maharao was compelled to submit to the adjudication of the claim of Balwant Singh. After the death of Banu Singh in 1857, during the minority of his son Shoodansing, the then ministers got ascendency over him, and their influence became obnoxious to the Rajput nobles who consequently rose in rebellion and drove away the ministers. A British Political Agent was posted to Alwar; order was restored; and a Council of Regency was formed which was to work under the Political Agent. When Shoodan Singh was on the gadi misrule became rampant. He had sympathies with his Mahomedan ministers; he resumed hereditary holdings and religious grants and the extravagance of the ruler compelled the British Government to interfere in the affairs of the State. The ruler was deprived of his powers, and a council of management presided over by a British officer whose monthly salary was fixed by the British Government but paid out of Alwar treasury was brought into being. The Chief continued to oppose all measures of reform and to foment dissensions among his Thakurs. He was warned that if he persisted in his recalcitrant attitude, he would be removed from the gadi. His powers however were never restored; and when he died in 1874 a minor was selected as his successor, with the result that the administration was carried on by the Council. These instances clearly show that during the time of the ruler's minority the administration was virtually under the control of the Political Agent; that when there was discontent bordering on rebellion in the State both in 1858 and in 1870 the British Government interfered and restored peace and order; that when the ruler by his continued maladministration oppressed his subjects and made his rule intolerable, the Government of India again interfered, deprived the ruler of his powers and assumed charge of the administration. It will thus be evident that even in internal administration, whenever there was

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long continued and gross misrule, the Governor General as the head of the Foreign and Political Department interfered and even deprived the ruler of his powers. Is it, therefore, justifiable to contend that even in internal affairs the ruler of Alwar enjoys rights of full sovereignty? The sovereignty such as he enjoys is subject to the important limitation that in domestic affairs also the Maharaja of Alwar has to maintain good administration, and secure proper and just government to his subjects so as not to force them into rebellion or drive them to a breach of peace. The Maharaja of Alwar as also his fellowprinces are extremely anxious to be free from the interference of the Political Department in their domestic affairs. This claim, as we have pointed out above, is not warranted either by treaties or by political practice. When the Maharaja of Alwar and his brother princes are agitating for independence in their domestic affairs what guarantees are they prepared to give to the Government of India to ensure good government to their subjects?

The Maharaja, the other day, at the banquet which he gave in honour of Sir Harcourt Butler and the other members of the States' Committee waxed eloquent about the position of the Indian Princes He said: "We have yet to discover and decide what is to be the future goal before the Indian States with their treaties and political practice." It does not really require much effort to discover the goal which has, luckily for the Iadian Princes, been clearly and unequivocally laid down in the announcement of 20 August 1917. If the Maharaja is genuinely loyal to the British Throne, the best way of showing that loyalty is, in our opinion, by giving effect to this policy in his State. But in Alwar there are no representative institutions; the people are not associated with the government in any form or in any stage; they have absolutely no control over administration, legislation, taxation or finance; there is no local self-government worth the name; no primary education, free and compulsory; no public press and no rule of law whatsoever. He declared martial law in Nemuchana a village in his state. Firing on the people, burning of village, destruction of property and cattle followed. The Maharaja however did not see any necessity of a measure like an act of indemnity. The despotic nature of the Maharaj's rule was never more strongly demonstrated than when he refused to accede to the very modest popular demand for an independent inquiry into the shooting affair at Nemuchana. He has clearly failed to understand the spirit of the times and to imbibe the principles underly-

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ing the growth of democracy. His own treaties and the political practice followed in regard to his own State have made his position abundantly clear—It is that of a dependent vassal bound to secure good government for his subjects on pain of being deprived of his powers like his illustrious predecessor Shivadansing.

Under Indian Swaraja of course Indian States have to be under the Foreign and Political Department in charge of a minister responsible to the people. Indian princes will then have to adopt the policy of His Majesty's Government announced in 1917. In such a case they have nothing to fear from India's democratised constitution. A convention may perhaps be established that there shall be no interference on the part of the Government of India in regard to states which have responsible government. Indian Princes like Alwar therefore seem to be deliberately confusing issues and are describing the relations of the States and British India as difficult of solution and are mischievously putting forward the bogey of treaty rights and political practice. But if these treaties and political practice are carefully analysed they do not show any complexity ; on the contrary they would help to advance progress in the direction of responsible government. The only thing which would be made impossible when India attains self-government is a tragedy like what happened at Nemuchana. The Maharaja of Alwar has envisaged the future graphically in a very beautiful manner. He hoped that the States' Enquiry Committee " would do something to ensure that our Indian Empire within the greater empire working in harmony with our sister States in British India may fulfil the ideal of the King Emperor of the greatest Empire marching at the head of a gorgeous procession of life accompanied on the one side by his subjects and on the other side by the Indian sovereigns escorted by the peoples of his mighty dominions to move along the great road of progress and good-will to the ultimate destination of freedom and salvation of the world". This indeed is a very fascinating picture. We do not know if the Committee is or is not going to do something for the realisation of this ideal. But we want to put it to His Highness the Maharaja of Alwar, whether he himself does or does not stand for freedom and salvation. If he does not stand for popular liberties, as one is forced to infer from his previous record, what is the use in prating of these things and yet pretending ignorance as to the goal of Indian States as he has been doing ?

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## (III) PATIALA.

Coming to the State of Patiala whose Ruler is the Chancellor of the present Chamber of Princes, the first treaty in existence dates back to 1815 which assured protection and support to the Ruler, the Ruler on his part undertaking to furnish armed men and bigaries ( forced labour ) in case of war. The most important clause of this treaty is that *the Raja will omit no exertion to do justice and to promote the welfare and happiness of the ryot.* Similarly in another treaty concluded in the same year there is an undertaking on the part of the Ruler to promote the welfare of the ryots. The same obligation was imposed on the Maharaja in a sanad issued to him in 1847 guaranteeing him protection and the security of his rights. The Maharaja engaged to abolish all transit duties and to suppress Sati, infanticide and slave trade. He also undertook to keep in repairs the military roads through his country for the passage of British troops and to keep separate camping grounds for the same. After the mutiny in 1860 a Sanad was conferred upon the Maharaja reaffirming the guarantee of his possessions and conferring upon him civil and criminal powers of capital punishment. In clause 4 there is a very significant condition; "The Maharāja Saheb Bahadur will exert himself with every possible means in promoting the welfare of his people and the happiness of his subjects and redressing the grievance of the oppressed and injured in the proper way." In the tenth clause it is stipulated that the Maharaja Saheb Bahadur will always pursue the course of obedience and loyalty to the British Government who will likewise continue to uphold his honour, respect, rank and dignity in the manner as is done at present. It is significant that this sanad is issued in the name of the Viceroy and the Governor General of India. In 1862 an adoption sanad was conferred upon the Ruler. Agreements for telegraph lines from Amballa to Patiala, regarding Surhind canal, for the mutual exchange of correspondence, parcels, insured and V. P. articles of the Postal Department, for the Sirsa Branch of the Western Jumna Canal for the cessation of the jurisdiction on the portion occupied by Railways were concluded with the State. These treaties distinctly lay down the position of a dependent vassal occupied by the Patiala Ruler.

Looking to the political practice we find that in 1808 the Ruler made overtures to the British Government for his own protection. There was misgovernment in Patiala in 1811 and the British enyoy, Colonel Ochterlony, had to interfere. In 1812 the situation grew



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worse and the same officer went to Patiala and proclaimed Rani Auskuar as Regent. In 1823 the British Government again interfered in the internal affairs of Patiala in support of Koramsing. During the minority of the Rulers the British Government appointed a Council of Regency and in 1817, when there was considerable intrigue in the State, the State was placed under the direct control of the Local Government. We thus find that the obligation of promoting the welfare and happiness of the people and redressing their grievances in the proper way has been specifically laid upon the rulers not once but repeatedly in express terms by the treaties. In the face of these treaties and the existing political practice we ask the Maharaja whether the State and British India are two sister polities independent of each other. Is not the Maharaja made subordinate to the powerful Government represented by the Governor General? Is there any single treaty which establishes direct relations with the Crown? The Maharaja recently observed that between the British Crown and the states there exist sacred ties. We would ask the Maharaja to quote chapter and verse to substantiate his claim. If by Crown 'the Maharaja' means the government carried on in the name of His Majesty through the Government of India under the advice of a constitutional minister responsible to the Parliament, we have nothing to say.' But if the Maharaja pretends that the relations are with the British Crown independently of the Government of India his claim is untenable. The specific stipulation of securing the contentment of the people imposes serious obligations on the ruler, the breach of which entitles the Governor-General to interfere in the internal affairs of the State. The Maharaja, therefore, cannot lay claim to complete sovereignty even in his domestic affairs. The Maharaja maintains that the control of the present Government of India is passing more and more out of the hands of the power with whom the princes entered into treaty relations and insinuates that he is not bound to be under the control of the would-be successors of the present Government of India. The treaties concluded with the Maharaja and the interference in his internal administration up to 1858 were by the authority of the East India Company. When Parliament transferred the power from the Court of Directors to the Government of India the Maharaja acquiesced in this transfer and raised no protest against the conditions and obligations imposed by the Governor General. If the Maharaja's contention is that his relations are with the Court of Directors, he ought not to have respected the successors of the East India Company. Having consented to

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the overlordship of the Government of India and having accepted with implicit obedience the authority of Parliament to control the destinies of this country the Maharaja has now no face to enter any sort of protest against the machinery which Parliament thought fit to sanction for the government of British and Indian India. If the control of the present Government is passing more and more into different hands it is because Parliament ordains to that effect, the Maharaja's unwillingness notwithstanding. It is pertinent to bear in mind what the late Mr. Montague said while introducing the reform bill of 1919 in the House of Commons " In order to realise responsible Government and in order to get devolution upon which there is general agreement you must gradually get rid of government by the agents of Parliament and re-place it by Government by the agents of the representatives of the people of India. In other words you have to choose your unit of government and you have got in that unit an electorate which will control the government ". And this is to happen with the consent and sanction of Parliament.

It is strange that the Maharaja in one breath has been disavowing hostility to the aspirations of British India and in the next breath bitterly complaining about the transfer of power from an alien bureaucracy to the British Indian people. If the Maharaja thinks that British Indians would not understand the real import of these words he is only practising self deception. The treaties concluded with Patiala do not, support any of those audacious claims which the Maharaja and the shining lights of the Chamber of Princes are urging on the attention of the Governmen at this juncture.

## (IV) NAWANAGAR.

The Jamsaheb of Nawanagar originally belonged to a Jareja Rajput family which migrated from Cutch to Kathiawad and founded Nawanagar in 1442. The first engagement of the Jam with the East India Company was made in 1808 by which he renounced piracy and all rights to wrecks. In 1811 the turbulence of the Jam made it necessary for the British Government to reduce him by force. He refused to settle heavy pecuniary claims which the Rao of Cutch had against him for military assistance rendered in time of danger. He ejected from his State the Agent of the British Government who was making inquiries regarding the prevalence of infanticide and made preparations to assert his independence by inducing other chiefs to combine against the Paramount Power. A force

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was therefore marched against him and in 1812 he agreed to pay the pecuniary demands of the Rao of Cutch. Under the terms of this treaty, the port of Suryah was to be given up to the Gaikwar, the fort of Morpore to be destroyed, and foreign Arab Shibandy to be discharged. The Jamsaheb gave securities for carrying out these undertakings, and was ordered to pay Rs. 15 lacs as expenses of the army. A fine of Rs. 5000 was imposed on him for the breach of the infanticide engagements. He had further to pay a fine of Rs. 1 lakh to the Baroda Government. In 1846 he undertook to exempt from duty vessels entering his ports from stress of weather. He was made in 1873, to extend this exemption to the vessels of the Rao of Cutch. Adoption Sanad was issued to him and he agreed to the regulation of the manufacture of salt in his State. He also consented to the erection of Government-telegraph lines through his territory. In 1894 the Jam ceded full civil and criminal jurisdiction over the lands occupied by the railway. In 1899 the Jam entered into an agreement regarding the discipline of Imperial Service Troops.

It will thus be seen that the Jam has been treated all along as a dependent feudatory forced into submission with military strength and the history of treaties and engagements of the Jamsaheb clearly show that his ancestors have been some of the most recalcitrant feudatories with tendencies of a free-booter and even with the audacity to eject British Political Officers. But the Jam has been latterly talking as though he were a potentate of international status and has been emphasising and urging that the traditions of treaties should be maintained. What are these traditions? We find that the predecessors of the present Maharaja were turbelent feudatories plundering and looting their neighbours, committing acts of piracy, making money by inflicting injury on helpless vessels touching their ports under unfavourable weather conditions and adding to the distress of the unfortunate victims. With such traditions, we wish the Jamsaheb had observed silence about his treaties and engagements. All the treaties with the Jam have been made by the Government of India through the Political Department represented by the political officers. The Jamsaheb pays tribute to the British Government, to the Gaikwad of Baroda and to the Nabab of Junagad.

The history of the treaties and engagements and of the political practice followed in the case of these four States, whose Rulers are occupying prominent positions in the Chamber of Princes, who are

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talking of an independent and autonomous status and who are now pretending that their relations are with the King Emperor and not with the Government of India unequivocally supports the following conclusions:—

(1) These States are in subordinate union with the Government of India.

(2) Treaties and engagements have been concluded with them by the Governor General on behalf of the East India Company and by the Governor-General as the head of the Government of India, acting through the Foreign and Political Department since 1858.

(3) All vestiges of sovereignty such as the minting of coins, manufacture of salt, civil and criminal jurisdiction over the lands occupied by Railways, right to impose customs duties, extradition of offenders and a number of other *indicia* of their sovereignty are taken away from them with the result that their position is that of dependent vassals.

(4) They are forbidden to have independent relations with one another.

(5) Even in their internal affairs they do not enjoy full sovereign rights.

(6) Whenever there have been occasions of disturbance of public peace caused by the internecine disputes of succession, predatory tendencies, financial embarrassment, dissipation or gross misrule, or mal-administration, goading people to desperation and rebellion, the British Indian Government has interfered, brought about reform in the administration and at times deprived the ruler of his powers.

(7) The British Indian Government has resorted to remedial measures whenever foreign relations were disturbed or whenever the well-being of the people was seriously endangered by the misdeeds of a ruler.

(8) The ralations of the States are not directly with the Crown or even with the Secretary of State, but have all along been with the Governor General as the head of the Government of India.

(9) The Indian rulers and their subjects like other citizens of the British Empire owe allegiance to the person of

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> His Majestybut that is in his capacity as the head of the Executive Government which is carried on in his name and which is responsible to Parliament.

All talk therefore of direct relations with the Crown or the pretensions of the Rulers to be treated as autonomous units, unconnected with and independent of the Government of India is unwarranted by the terms of treaties or by political practice governing their relations with the paramount power. The Indian States are, in a subordinate position organically connected with the constitution of the present Government of India. They thus form an integral portion of the body politic.

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# A Summary of the treaty obligations to secure the welfare of the people of the States which have been admitted as Members of the Chamber of Princes, and of the Political practice followed by the Suzerain power to secure the same object in relation to these States.

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# List of Ruling Princes and Chiefs who have been admitted as Members of the Chamber of Princes

( Corrected upto first June 1928 )

MEMBERS.

*Salutes of 21 guns.*

Baroda. The Maharaja ( Gaekwar ) of —
Gwalior. The Maharaja ( Scindia ) of —
Hyderabad. The Nizam of —
Jammu and Kashmir. The Maharaja of —
Mysore. The Maharaja of —

*Salutes of 19 guns.*

Bhopal. The Nawab of —
Indore. The Maharaja ( Holkar ) of —
Kolhapur. The Maharaja of —
Travancore. The Maharaja of —
Udaipur ( Mewar ). The Maharana of —

*Salutes of 17 guns.*

Bahawalpur. The Nawab of —
Bharatpur. The Maharaja of —
Bikaner. The Maharaja of —
Bundi. The Maharao Raja of —
Cochin. The Maharaja of —
Cutch. The Maharao of —
Jaipur. The Maharaja of —
Jodhpur ( Marwar ). The Maharaja of —
Karauli. The Maharaja of —
Kotah. The Maharao of —
Patiala. The Maharaja of —
Rewa. The Maharaja of —

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Tonk. The Nawab of —

*Salutes of 15 guns.*

Alwar. The Maharaja of —
Banswara. The Maharawal of —
Datia. The Maharaja of —
Dewas ( Senior Branch ). The Maharaja of —
Dewas ( Junior Branch ). The Maharaja of —
Dhar. The Maharaja of —
Dholpur. The Maharaj-Rana of —
Dungarpur. The Maharawal of —
Idar. The Maharaja of —
Jaisalmer. The Maharawal of —
Khairpur. The Mir of —
Kishangarh. The Maharaja of —
Orchha. The Maharaja of —
Partabgarh. The Maharawal of —
Rampur. The Nawab of —
Sikkim. The Maharaja of —
Sirohi. The Maharao of —

*Salutes of 13 guns.*

Benares. The Maharaja of —
Bhavnagar. The Maharaja of —
Cooch Behar. The Maharaja of —
Dhrangadhra. The Maharaja of —
Jaora. The Nawab of —
Jhalawar. The Maharaj-Rana of —
Jind. The Maharaja of —
Junagadh ( or Junagarh ). The Nawab of —
Kapurthala. The Maharaja of —
Nabha. The Maharaja of —
Nawanagar. The Maharaja of —
Palanpur. The Nawab of —
Porbandar. Tha Maharaja of —
Rajpipla. The Maharaja of —
Ratlam. The Maharaja of —
Tipperah. The Maharaja of —

*Salutes of 11 guns.*

Ajaigarh. The Maharaja of —



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Alirajpur. The Raja of —
Baoni. The Nawab of —
Barwani. The Rana of —
Bijawar. The Maharaja of —
Bilaspur. ( Kahlur). The Raja of —
Cambay. The Nawab of —
Chamba. The Raja of —
Charkhari. The Maharaja of —
Chhatarpur. The Maharaja of —
Faridkot. The Raja of —
Gondal, The Maharaja of —
Janjira, The Nawab of —
Jhabua. The Raja of —
Maler Kotla. The Nawab of —
Mandi. The Raja of —
Manipur. The Maharaja of —
Morvi. The Maharaja of —
Narsingarh. The Raja of —
Panna. The Maharaja of —
Pudukkottai. The Raja of —
Radhanpur. The Nawab of —
Rajgarh. The Raja of —
Sailana. The Raja of —
Samthar. The Raja of —
Sirmur ( Nahan ). The Maharaja of —
Sitamau, The Raja of —
Suket. The Raja of —
Tehri ( Garhwal ). The Raja of —

*Salutes of 9 guns.*

Balasinor. The Nawab ( Babi ) of —
Banganapalle. The Nawab of —
Bansda. The Raja of —
Bariya. The Raja of—
Chhota Udepur ( Mohan ). The Raja of —
Danta. The Maharana of —
Dharampur. The Raja of —
Dhrol. The Thakur Saheb of —
Jawhar. The Raja of—
Khilchipur. The Rao Bahadur of—
Limbdi ( Limbri ). The Thakur Saheb of—

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Loharu. The Nawab of—
Lunawada ( or Lunawara ). The Raja of—
Maihar. The Raja of—
Mudhol. The Raja of—
Palitana. The Thakur Saheb of—
Rajkot. The Thakur Saheb of—
Sachin. The Nawab of—
Sangli. The Chief of—
Savantvadi. The Sar Desai of—
Sant. The Raja of—
Vankaner ( or Wankaner ). The Raj Saheb of—
Wadhwan. The Thakur Saheb of—

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NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| 1 | Baroda | 21 | |

NATIONAL ARCHIVES OF INDIA

| Political Practice. | Remarks. |
|---|---|
| In 1867 the Government of India waived their right to have formally submitted for their sanction any appointment which the Gaekwar might wish to make for the post of the Dewan of his State. They retained, however, the right to veto any nomination of which they might disapprove. (At. Vol. VIII P. 10.) Under Malharrao's rule there was serious maladministration in the State. Lord Northbrook the then Governor-General wrote to the Gaekwar "I cannot consent to employ British troops to protect any one in a course of wrong doing. Misrule on the part of a Government which is upheld by the British Power is misrule for which the British Government becomes in a measure involved. It becomes, therefore, not only the right but the possitive duty of the British Government to see that the administration of a State in such a condition is reformed and that gross abuses are removed". The Gaekwar was distinctly informed that if he failed to reform his administration within 18 months allowed for the purpose he would be removed from powers. Tupper 'our Indian protectorate P. 115. A Commission was appointed by the Government of India to inquire into the charges of general Maladministration. It was composed of Colonel Meade, Nawab Faiz Alikhan Bahadur, Prime Minister of the Jaipur State, Mr. Reavenstroft of the Bombay Civil Service, Lt. Col. Etheridge, An Officer of the Irregular Cavalry well acquainted with Baroda and its people with Mr. Makenzie of the Bombay Civil Service as secretary. This Commission took evidence in the presence of the Resident and of the representative of the Baroda Government who was allowed to cross examine and record replies or remarks upon the statements made. The Commission sent their report to the Government of India through the Bombay Government. The Government of India decided to give five months' time to His Highness to bring about the necessary reforms and if these reforms were not carried out the only course left would be to deprive him of the throne. | Political practice. |

NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
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NATIONAL ARCHIVES OF INDIA

| Political Practice. | Remarks. |
|---|---|

He was further advised to dismiss the present minister and certain other officials. ( Thornton's life of Meade, P. 163 to 169 ). On 15th February 1875 by a Notification, the Government of India assumed the administration of Baroda temporarily, suspended the Ruler and appointed a Commission to inquire into the allegations of poisoning the British Resident at Baroda. The Gaekwar was tried and the report of the Commission was divided. The Government of India issued a proclamation which stated " having regard however to all the circumstances relating to the affairs of Baroda from the accession of His Highness Malhar Rao Holkar to the present time his notorious misconduct, his gross misgovernment of the State and his evident incapacity to carry into effect the necessary reforms and having also considered the opinion of the Government of India that it would be detrimental to the interests of the people of Baroda and inconsistant with the maintenance of the relations which ought to subsist between the British Government and the Baroda State that His Highness should be restored to power, Her Majesty's Government have decided that His Highness Malhar Rao Holkar shall be deposed from the sovereignty and that he and his issue shall be hereafter precluded from all rights, honours and privileges thereto appertaining. It was dated 19th April 1875 and was issued by order of His Excellency the Viceroy and Governor-General of India in Council.

( Thornton P. 204. )

Lord Salisbury as Secretary of State for India in the despatch on the Gaekwar Case observed as below :—" The British Government which has deprived his ( Malhar Rao's ) Sardars and ryots of the power of righting themselves would not be justified in using its supremacy to compel them to submit again to a Ruler whose incurable vices had been established by full experience. You were accordingly instructed to rest his deposition on the general ground. Incorrigible misrule is of itself a sufficient disqualification for sovereign power. Her Majesty's Government

NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| 2 | Gwalior | 21 | By article 11 of the Treaty of 1844 it is agreed that the British Government shall as heretofore exert its influence and good offices for maintaining the just territorial rights of the Maharaja and the subjects of the State of Scindia at present existing in the neighbouring and other native States. The British Government undertook to protect the person of His Highness the Maharaja, his heirs and successor to protect his dominion from foreign invasion and to quell serious disturbance therein.<br><br>(At. Vol. IV P. 78) |

NATIONAL ARCHIVES OF INDIA

| Political Practice | Remarks. |
|---|---|
| have willingly accepted the opportunity of recognising in a conspicuous case the paramount obligation which lies upon them of protecting the people of India from oppression." 3 June 1875.<br><br>"I venture to offer that the first cardinal principle of the whole system, the maintenance of the supremacy of the Paramount Power, originates in the policy of Lord Wellesley and Lord Hardinge; that the second cardinal principle, the preservation of the autonomy of the feudatory States was clearly expressed in the proceedings which followed the mutiny during the viceroyalty of Lord Canning, and has since been very emphatically affirmed by Acts and Proclamations of the Government; and that the third cardinal principle 'the denial of any right divine to govern wrong' has been established by the course taken by the Government on many occasions and notably in the trial and deposition of the Gaekwar of Baroda."<br><br>( Tupper, Our Indian Protectorate P. 23 ). | |
| During the minority of Maharaja Madhava Rao a Council of Administration was empowered to carry on the Government in consultation with the Resident who was instructed to supervise the proceedings and to suggest measures for the improvement of the administration. | Treaty obligation. |



NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| 3 | Hyderabad | 21 | |

NATIONAL ARCHIVES OF INDIA

| Political Practice | Remarks. |
|---|---|
| Hyderabad was virtually a British occupation from 1800 to 1902 ( Vide correspondence published in the Gazette of India 5th April 1926 ). During the time of Sir Salarjung the British Government forced a co-regent of their choice on Sir Salarjung. In this connection the Foreign Secretary to the Government of India wrote to the Resident at Hyderabad in the following manner. " The Treaties with Hyderabad constitute the British Government supreme protector of the state from external and internal enemies. In the exercise of this protective power the British Government has for more than three-quarters of a century preserved the peace and the dynasty of Hyderabad. In the exercise of this power it has frequently remonstrated against acts of maladministration and oppression. In the exercise of this power on two occasions it interfered to prevent the dismissal of His Excellency Sir Salarjung from office by the late Nizam. In the exercise of this power it assumed in 1869 and still holds the guardianship of the young Nizam and has arranged and will continue to arrange for the proper administration of His Highness's territory until he comes of age. "<br>Lord Lytton was the Governor-Goveral at this time.<br>( Meade's Life by Thornton P. 340 )<br>In 1902 Lord Curzon wanted the Nizam to take his sanction for the confirmation of his Minister. He also insisted that Mr. Casson Walkar who was sent to Hyderabad should be appointed as Assistant Minister for Finance and that further the Minister and Mr. Walker should draw up a scheme defining Mr. Walkar's authority and powers and that it should be finally submitted to him for sanction.<br>( vide Gazette of India 5-4-26 ).<br>Lord Reading in connection with the claim for the rendition of Berar in his letter to His Exalted Highness dated 27th March 1926 has stated the position of the Paramount Power in relation to the Indian States as below: " The sovereignty of the British Crown is | Political practice |

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| S. No. | Name of the State | Number of Salutes of Guns | Treaties. |
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| Political Practice. | Remarks. |
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supreme in India and therefore no ruler of an Indian State can justifiably claim to negotiate with British Government on an equal footing. Its supremacy is not based upon treaties and engagements but exist independently of them and quite apart from its prerogative in matters relating to foreign powers and policies, it is the right and duty of the British Government while scrupulously respecting all treaties and engagements with the Indian States to preserve peace and good order throughout India. The right of the British Government to intervene in the internal affairs of the Indian States is another instance of the consequences necessarily involved in the supremacy of the British Crown. The British Government had indeed shown again and again that they have no desire to exercise this right without grave reason. But the external no less than the internal security which the Ruling Princes enjoy is due ultimately to the protecting power of the British Government and where imperial interests are concerned or general welfare of the people of a State is seriously and grievously affected by the action of its Government, it is with the Paramount Power that the ultimate responsibility of taking remedial action if necessary must lie. The varying degrees of internal sovereignty which the Rulers enjoy are all subject to the due exercise by the Paramount Power of this responsibility. The title faithful Ally has not the effect of putting your exalted Highness in a category separate from that of other States under the paramountcy of the British Crown.

Only recently in August 1926 it was reported that an ultimatum was sent to His Exalted Highness the Nizam asking him to adopt the final and complete giving up of Nazars. ( 2 ) The proper punishment of several Talukdars who have been misruling the people in the name of the Nizam. ( 3 ) Immediate appointment of British Officers to the Posts of President in Council, Finance Member, Revenue Member and the Director General of Police. ( 4 ) The award of justice to minor Jahagirdars and their estates.

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| S. No. | Name of the State | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| 4 | Jammu and Kashmir. | 21 | The principality of Jammu had by then been annexed by the Sikhs and Ranjit Sing conferred it upon Gulab Sing with the title of Raja.<br>(At. vol IX. 3rd 340.)<br>By the treaty of Amritsar dated 16th March 1846 Kashmir which had been wrested in 1819 by the Maharaja Ranjitsing from the Afgan Governor who had conquered it in 1752 was granted in subordinate sovereignty to Raja Gulab Sing the Hindu Ruler of Jammu. This new Hindu sovereign had begun life as a cavalry trooper in Ranjit Singh's army and had received Jammu from the Maharaja as a reward for an act of bravery. He took a leading part in the negotiations which followed the battle of Sobraon and to him and the heirs male of his body was now granted the independent possession of Kashmir.<br>Leewarner 'The native States of India' P. 140–41.<br>By the treaty of 1846 Maharaja Gulab Sing acknowledged the supremacy of the British Government.<br>(At. vol IX 3rd P. 354.) |

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| Political Practice | Remarks |
|---|---|
| ( 5 ) The institution of a proper system for the general administration of the Country. In obedience to this order of Government His Exalted Highness has declared by a Furman that the taking of Nazars is stopped and he has consented to the appointment of British Officers to important posts and the question of setting free some estates forcibly brought under the control of the Courts of wards is under consideration of the Nizam's Government. | |
| In 1848 the Governor-general informed the Maharaja that "in no case will the British Government be the blind instrument of a ruler's in-justice towards his people and if in spite of friendly warnings the evil of which the British Government may have just cause to complain be not corrected a system of direct interference must be resorted to" Leewarner P. 238. Kashmir suffered severly from famine in the years 1878 and 1880. The calamity was aggravated by the inefficiency of the administration.<br>In 1885 when Maharaja Pratapsing succeeded his father the Government of India instructed the resident to endeavour to bring about administrative reforms which were urgently needed in Kashmir.<br>In 1889 Maharaja Pratap Sing whose administration Since his accession had been a source of anxiety to the Government of India voluntarily resigned all active participation in the Government of his State. His resignation was accepted and the opportunity was taken to re-organise the administration which was handed over to a Council consisting of selected officials of the British Service and the Maharaja's brothers.<br>In 1891 the Maharaja was restored at his own request to a portion of his powers. The Council which had on the whole worked satisfactorily was continued with the Maharaja as the president. The condition requiring the Darbar to be guided by the residents advice was Maintained and was fully accepted by the Maharaja.<br>(At. vol. IX 3rd Ed. P. 247-48.) | Political Practice |

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| S. No. | Name of the State | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| 5 | Mysore | 21 | The rendition of Mysore took place in 1881. The instrument of transfer clearly lays down the limitations on the sovereign powers of the State. Article 19 provides that all laws in force at that time are to be maintained and efficiently administered and they are not to be repealed or modified and no laws or rules are to be made inconsistent there with except with the previous consent of the Governor-General in Council. Article 20 enjoins that no material change in the system of administration established in the territories shall be made without the consent of the Governor-General in Council Article 22 directs that the Maharaja of Mysore shall at all times conform to such advice as the Governor-General in Council may offer him with a view to the management of his finances, the settlement and collection of his revenues, the imposition of taxes, the administration of justice, the extension of commerce, the encouragement of trade, agriculture and industry and any other objects connected with the advancement of His Highness' interest, the happiness of his subjects and his relations to the British Government.<br><br>Article 23 states that in the event of the breach or non-observance by the Maharaja of Mysore of any of the foregoing conditions the Governer-General in Council may resume possession of the said territories and assume the direct administration thereof or make such other arrangements as he may think necessary to provide adequately for the good government of the people of Mysore or for the security of British rights and interests within the province. |

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| Political Practice. | Remarks |
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| | Treaty obligation, |

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| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| | | | The rendition of Mysore was practically a regrant.<br>( Lee-Warner, the Native States of India P. 171 to 178. ) |
| 6 | Bhopal ( Central India. ) The principal Musalman State ranks next in importance to Hyderabad among the Mahommedan States of India. | 19 | By the Treaty of 1818 the Nawab agreed to act in subordinate co-operation with the British Government and acknowledged its supremacy.<br>In 1863 the Begam appealed against the exercise of jurisdiction by the Political Agent in respect of cases where British subjects Native or European were either plaintiffs or defendants. This claim was not admitted.<br>( At. Vol. IV P. 282 ) |
| 7 | Indore ( Central India. ) | 19 | |
| 8 | Kolhapur (S. M. C. Bombay Presidency.) | 19 | By the treaty of 1826 the Maharaja agreed to attend to the advice of the British Government on all matters calculated to affect the public tranquility.<br>In 1862 a treaty was concluded the first article of which runs that in all matters of importance the Raja of Kolhapur agrees to follow the advice of the British Government as conveyed by the Political Officer. |

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| Political Practice. | Remarks. |
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| In 1885 the administration of Bhopal suffered chiefly owing to the ill advised interference of the Begam's husband in public affairs. The British Government after repeated expostulations was at length reluctantly obliged to interpose. | Political Practice |
| In 1834 British Government interfered to support Harihar Rao, the Ruler of the State. In 1899, the Resident was appointed to the direct political charge of the State and the Maharaja was required to consult him in all important matters as maladministration of Shivaji Rao became very serious. In 1903 Shivaji Rao Holkar voluntarily abdicated.<br>(At. Vol. IV P. 187-92.)<br>In 1926 a Commission was announced to inquire into the connection of the Maharaja with the murder of Mr. Bawla in Bombay. The Maharaja offered to abdicate in favour of his son and thus avoided the Commission. | Political Practice |
| In 1838 there was great misrule and the Government interfered and appointed a Minister of its own. | Treaty Obligation |

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| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| | | | The Raja was given criminal powers of a limited character; sentences of death were to be referred to the authority of Government.<br>The residuary jurisdiction over the feudatory Jahagirdars vested in the British Government.<br>(At. Vol. VII. P. 216.) |
| 9 | Travancore (Madras.) | 19 | Article 9 of the treaty of 1805 runs thus:<br>His Highness hereby promises to pay at all times the utmost attention to such advice as the English Government shall occasionally judge it necessary to offer with a view to the economy of his finances, the better collection of his revenues the administration of justice, the extension of commerce, the encouragement of trade, Agriculture and industry or any other objects connected with the advancement of His Highness' interest, the happiness of his people and the mutual welfare of both States.<br>(At. Vol. X P. 138.) |
| 10 | Udaipur (Rajputana.) | 19 | In 1818 a Treaty was concluded by which the State agreed to act in subordinate co-operation with the British Government and acknowledged the British Supremacy.<br>By the article 4 of the treaty the Maharana of Udepur agreed not to commit aggressions upon any one.<br>(At. Vol. III P. 30.) |
| 11 | Bhawalpur (Mahomedan State.) | 17 | In 1838 Treaty of perpetual friendship was concluded. By article three the Nabab agreed that he and his successors will act in subordinate co-operation with the British Government and acknowledged its supremacy. By |

NATIONAL ARCHIVES OF INDIA

| Political Practice | Remarks. |
|---|---|
| | Treaty Obligation |
| Owing to financial embarrassment in 1821 the State was placed under the direct superintendence of the Political Agent and the Maharaja was given the allowance of 1,000 Rs. a day.<br>In 1826 the Maharaja was restored to power. In 1838 the Court of Directors gave a warning to the Maharaja that if he did not pay tribute regularly territorial security would be required. In 1861 during the minority of the ruler judicial and revenue powers were exercised by the Political Agent.<br>(At. Vol. III P. 14–15.) | Political Practice |
| In 1866, The Nabab died suddenly and his son was a minor. There was a claimant to the Gadi, considerable unrest prevailed, the army was discontented and there was no party of sufficient strength to carry on the administration, and Durbar preferred a request that the British | Political Practice |

NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
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| | | | article 5th,, the Nabab agreed that he and his heirs and successors will not commit aggressions on any one. If by accident any dispute arises with any one the settlement of it shall be submitted to the arbitration and award of the British Government. (At. Vol. VIII P. 410.) |
| 12 | Bharatpur ( Jat Principality Rajputana.) | 17 | In 1803 a treaty was concluded by which the British Government agreed never to interfere into the concerns of the Maharaja's country nor exact any tribute from him. In 1805 another treaty was concluded requiring him to pay indemnity for the war which he had waged. |
| 13 | Bikaner (Rajput Principality of Rathor class. ) | 17 | The first treaty was concluded in 1818, the British Government engaged to protect the principality. The Maharaja and his successors agreed to act in subordinate co-operation with the British Government and acknowledged its supremacy. By article 5th the Maharaja and his heirs agreed not to commit aggressions on any one. By article 7 the British Government undertook to reduce to subjection the Tankoers and other inhabitants who |

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| Political Practice. | Remarks. |
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| Government should undertake the administration during the Minority of the Chief. The Government of India at the earnest and repeated solicitation of the Nabab and the leading men of the State consented to interfere into the affairs of the State and administer the country through a British officer. In 1899 there was again a minority, a British Superintendent was appointed to conduct the minority administration. In 1903, the Nabab was invested with the ruling powers under the control of the Political Agent. | |
| In 1823 a dispute to the succession of Gadi arose and when it was likely to lead to a protracted war, Government interfered, deposed the usurper, stormed the fort of Bharatpur. The young Maharaja's succession was recognised, under the Regency of his mother, under the superintendence of a Political Agent.<br>In 1853 again a minority occurred and the Political Agent undertook the administration.<br>In 1895 it was found necessary to take the administration out of the hands of the Maharaja and the control of affairs vested in a council under the general supervision of the Political Agent.<br>In 1900, the Maharaja killed one of his private servants at Mount Abu and he was deposed. His minor son succeeded and there was again a minority administration under the Political Agent.<br>(At. Vol, III P. 262–63.) | Political Practice |
| In 1871 discontent arose, the State was in debts and exactions of the Maharaja to increase the revenue gave rise to discontent. The Tankores left Bikaner and took refuse in the British territory. A British officer was deputed to make inquiries and to adjust the difference between the Maharaja and his nobles.<br>In 1883, the affairs of the state relapsed into confusion, a resident Political Agent was appointed to Bikaner and the Maharaja was required to conform to certain conditions so as to ensure to the political officer the power of removing | Political Practice |

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| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| | | | had revolted and thrown off his authority. The Maharaja undertook to pay all the cost.<br>In 1830 the British Resident had made preparations to send forces to Bikaner to assist the chief in reducing the rebellious nobles. The Chief was however given to understand that he had no right to call on the British Government for military aid against his disaffected subjects at any future period. They also reminded the Resident that military aid should never be given to Native States for the suppression of internal disturbance.<br>(At. Vol. III P. 337.) |
| 14 | Bundi (Rajputana.) | 17 | The first agreement was concluded in 1818, the Raja acknowledged the supremacy of the British Government for ever. The Raja was to be absolute ruler of his dominions and the British jurisdiction shall not be introduced therein.<br>(At. Vol. III P. 225.) |
| 15 | Cochin (Madras.) | 17 | In 1791 a treaty was concluded which acknowledged sovereignty of the Hon. Company. In 1809 insurrection took place against the British Governor. This was suppressed and a fresh treaty was concluded in the same year. Article 9 provides thus.<br>The Rajha of Cochin hereby promises to pay at all times the utmost attention to such advice as the English Government shall occasionally judge it necessary, to offer him with a view to the economy of his finances, the better collection of his revenues, the administration of justice, the extension of Commerce, the encouragement of more agriculture and industry or any other subject connected with the advancement of the interest of the |

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| Political Practice. | Remarks. |
|---|---|
| abuses and of controlling the administration. (At. Vol. III P. 337.) | |
| | Treaty Obligation |



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| S. No. | Name of the State | Number of Salutes of Guns | Treaties. |
|---|---|---|---|
| | | | said Rajha, the happiness of his people and material welfare of both States. (At. Vol. X. P. 164) |
| 16 | Cutch (Bombay Presidency.) | 17 | |
| 17 | Jaipur (Rajputana.) | 17 | In 1818 the Maharaja of Jaipur agreed to act in subordinate co-operation with the British Government. (At. Vol. III. P. 89). |
| 18 | Jodhpur (Rajputana.) | 17 | In 1818 Jodhapur was taken under the protection of the British Government. By article 5 the Maharaja and his heirs and successors agreed not to commit aggression on any one. If by accident disputes arise with any one they shall be submitted to the arbitration and award of the British Government. (At. Vol. III P. 159.) In 1839 an agreement was concluded in consultation with the Maharaja, the |

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| Political Practice | Remarks, |
|---|---|
| In 1819, the Rao showed manifest hostility to the British Government and he was deposed and his son was placed in power under a Regency consisting of some chiefs aided by the British Resident.<br>In 1834 the then Rao was placed in charge of the Government of his country under the constitutional and the established advice of his Ministers and the members of the Jhareja Bhayads.<br>In 1875 a settlement was effected between the Rao and his Bhayads,<br>( At. Vol. VII. P. 788 ). | Political Practice |
| From 1819 to 1833 Jaipur was a scene of corruption and misgovernment and the British Government found it necessary to appoint an officer to reside at Jaipur and to authorise him to interfere in the internal administration of the State with a view to guarding the interests of Government and securing the payment of the tribute.<br>In 1834 it became necessary for the British Government to interfere in the internal administration owing to the long course of mis-government which had ruined the resources of the State. A Council of Regency was appointed under the superintendence of the Political Agent.<br>( At. Vol. III P. 91 ). | Political Practice |
| Owing to mis-government in 1839 the British Government was compelled to interfere.<br>The unjust confiscations and exaction of the Maharaja led to constant disputes with the nobles which terminated in 1868 in open hostilities between the parties. The Maharaja was informed that unless he consented to be guided by the advice of the British authorities he would be deprived of all authority for the rest of his life. He accordingly concluded an agreement in 1868. A ministry was appointed to conduct the affairs of the country. The whole civil and criminal | Political Practice |

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| S. No. | Name of the state. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| | | | political officer, Sardars, and Uholikars and the Khuwas Pasbans of the Raja and a Panchayat was created to conduct all the affairs of Government according to ancient usage. Article 11 said "a British agent having been appointed at this capital tyranny or oppression shall not be suffered towards any person. No interference shall be exercised in regard to six sects of religionists. (At. Vol. III P. 169.) |
| 19 | Karauli (Rajputana.) | 17 | In 1817 a treaty was concluded acknowledging the supremacy of the British Government. The Raja also agreed not to commit aggressions on any one. (At. Vol. III P. 285.) |
| 20 | Kotah (Rajputana.) | 17 | In 1817 Kotah was taken under the protection of British Government. |
| 21 | Patiala (Punjab.) | 17 | In the sanad issued to the ruler in 1815 there is this following condition: 'The Raja will omit no exertion to do justice and promote the welfare and happiness of the Ryots'. |

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| Political Practice | Remarks. |
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| administration was entrusted to them. The Maharaja undertook to restrict his private expenditure to a certain sum.<br>(At. Vol. III 143.)<br>The Maharaja had refused to attend the Durbar held at Ajmer in 1870 and Lord Lytton had reduced his Salutes from 17 to 15 for his life time.<br>In 1903 the Maharaja was temporarily deprived of power owing to his unsatisfactory conduct.<br>(At. Vol. III P. 148.) | |
| In 1848 owing to factions in the State the Agent to the British Government was sent to Karauli and he exercised the direct mangement of the State.<br>In 1852 the ruler died and the State was regarded as a lapse but finally an adoption was recognised. The direct interference of the Political Agent in the internal affairs was removed in 1855.<br>In 1881 owing to financial difficulties in the State the chief's authority was transferred to a Council under the control of the Political Agent. This was a temporary measure and lasted till 1887.<br>(At. Vol. III P. 265 to 7.) | Political Practice |
| Owing to maladministration and intemperate habits and the pecuniary embarrassment the Maharao agreed to hand over the administration to a native Minister nominated by the British Government in 1874.<br>( At. Vol. III P. 361. )<br>The Maharao's conduct was to some extent reformed and it was decided that he should be consulted on some matters of importance and certain departments were placed under his directions.<br>(At. Vol. III P. 362.) | Political Practice |
| | Treaty Obligation |

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| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| | | | In the sanad of 1847 it is laid down: "His Highness will exert himself to do justice and to promote the welfare and happiness of his subjects". In the sanad of 1860 the following condition is inserted "The Maharaja Saheb Bahadur will extert himself by every possible means in promoting the welfare of his people and the happiness of his subjects and redressing the grievances of the oppressed and injured in the proper way."<br>By this very sanad the power of inflicting capital punishment was granted to the Maharaja Saheb and his successors.<br>(At. Vol. V. III P. 199 to 203.) |
| 22 | Rewa Baghelkhand (Central India.) | 17 | In 1812 Rewa was brought under British protection. |
| 23 | Tonk (Rajputana.) Mahomedan State. | 17 | Tonk came under British protection in 1817. |
| 24 | Alwar (Rajputana.) | 15 | In 1803 the Maharao accepted the British protection. |

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| Political Practice. | Remarks. |
|---|---|
| In 1875 owing to financial embarrassment the Maharaja handed over his State to the control of the British Government and the State continued in this condition till 1895.<br>He was fined Rupees ten thousand for violating his treaty engagements by sending troops to Sohawal territory in 1873.<br>( At. Vol. V P. 223 ). | Political Practice |
| In 1867 the British Government deposed the Ruler as a punishment for his complicity in the attack on his uncle.<br>In 1886 owing to the financial embarrassment the State was placed under the direct control of the Political Agent.<br>( At. Vol. III P. 227. ) | Political Practice |
| In 1812 the Maharao was fined three lacs of Rupees for violation of his engagements.<br>In 1831 treaty engagements were violated.<br>In 1870 the Maharao was deprived of power because there was discontent amongst his subjects caused by the extravagance of the Chief by his Mahomedan sympathies, by his resumption of numerous heriditory holdings and religious grants.<br>( At. Vol. III P. 317 ). | Political Practice |

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| S. No. | Name of the States. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| 25 | Banswara (Rajputana) | 15 | By a treaty of 1812 the chief offered to become tributory to the British Government.<br>By the treaty of 1818 he agreed not to commit aggressions upon any one. |
| 26 | Datia (Bundelkhand.) | 15 | Treaty concluded in 1818.<br>( At. V. P. 11 ) |
| 27 | Dewas ( Senior ) Central India | 15 | The fourth Article of the treaty of 1818 stipulates that the Rajahs of Dewas engage not to enter into any affair of any magnitude without the advice and concurrence of the British Government.<br>Article 7 States that the Rajahs of Dewas with a view to the improvement of their possession agreed to act by union of authority and to administer the affairs of their provinces through one Minister or officer. The British Government promised to protect the Rajahs against the attacks of enemies and aid them in the settlement of any of their rebellious subjects.<br>( At. Vol. IV. P. 253. ) |
| 28 | Dewas (Junior) Central India | 15 | Same as above. |
| 29 | Dhar Central India | 15 | Dhar rebelled in 1857 and was in consequence confiscated. It was again restored in 1864.<br>Capital sentences require confirmation of British Government.<br>( At. IV. P. 467 ) |

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| Political Practice. | Remarks. |
|---|---|
| In 1866 the Maharao was fined and was required to pay compensation to the aggrieved party and his salutes were reduced from 15 to 11 guns.<br>In 1873 the Maharao was informed because he had committed an unprovoked attack on the village of Pratapgarh that his full salutes could not be restored to him.<br>In 1880 the full salutes were regranted.<br>( At. Vol. III P. 23 ). | Political Practice |
| The State was taken under direct management from 1875 to 1881 because its affairs had fallen into disorder and debts had increased.<br>( At. Vol. IV P. 248 ). | Political Practice |



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| S. No. | Name of the State | Number of Salutes of Guns | Treaties. |
|---|---|---|---|
| 30 | Dholpur (Rajputana) | 15 | Virtually a regrant of the British Government. Treaty was concluded in 1806. ( At. Vol. III P. 270 ). |
| 31 | Dungarpur (Rajputana) | 15 | Treaty of protection was concluded in 1818. |
| 32 | Idar (Mahikantha Agency) (Bombay Presidency) | 15 | Idar pays tribute to the Gaekwar. ( At. Vol. VI P. 276 ). |
| 33 | Jaisalmer (Rajputana) | 15 | In 1818 a treaty was concluded by which the Maharawal agreed to act in subordinate co-operation with the British Government and with submission to its supremacy. ( At. Vol. III P. 205 ). |
| 34 | Khairpur (Sind) Mohomedan State | 15 | British Government created this state in 1846. ( At. Vol. VII P. 334 ). |
| 35 | Kishangarh (Rajputana) | 15 | A treaty was concluded in 1818 about British supremacy. Article fifth provided the Maharaja and his heirs and successors will not commit aggressions on any one. ( At. Vol. III. P. 129. ) |
| 36 | Orchha ( C. I. ) ( Bundelkhand ) | 15 | Treaty of friendship concluded in 1812. ( At. Vol. V. P. 9. ) |
| 37 | Partabgarh (Rajputana) | 15 | Article 5 of the treaty of 1818 runs thus : |

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| Political Practice. | Remarks. |
|---|---|
| The Maharawal was deposed in 1825 for his incompetancy and for the disturbances which he had created.<br>In 1852 the State was kept under British administration because of maladministration.<br>( At. Vol. III P. 22 ) | Political Practice |
| Recently Government appointed a karbhari and interefered for misrule. | Political practice. |
| Owing to financial embarrassment Government interfered. | Political Practice |
| | Treaty Obligation |

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| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| | | | "The Raja is to be the master of his own government in the affairs of which the British Government is not to interfere except in the settlement of all predatory tribes and in the re-establishment of tranquility and good order. The Raja agrees to be guided by the advice of the British Government and further that he will not levy any unusual duty on the mint or merchants or merchandise throughout his State. (At. Vol. III. P. 83 ). |
| 38 | Rampur United Presidency Mahomedan State | 15 | The sanad issued to the ruler in 1840 contains the following condition. "Agreeably to the order of the Governor General I declare, that all matters connected with my rule shall be conducted with a view to maintain justice," In the sanad of 1855 there is the following understanding "I will administer the affairs of the Jahagir with justice and equity ". In the sanad of 1865 there was the following understanding. "I humbly agree that I will administer the affairs of the Jahagir with justice and equity." The agreement of 1887 contains the following assurance. "I do hereby agree that I will conduct the affairs of the Jahagir with justice and equity. (At. Vol. I P. 28-29.) |
| 39 | Sikkin State | 15 | |

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| Political Practice | Remarks. |
|---|---|
| | Treaty obligation. |
| In 1889 a political officer was appointed to advice and assist, the Maharaja in his administration of the country. A representative council was also established. In 1895 the Maharaja carried on the administration with the assistance of a Council under the general guidance and supervision of the political officer.<br>(At. Vol. II P. 317.) | Political Practice |

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| S. No. | Name of the State | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| 40 | Sirohi | 15 | The treaty of 1823 contains article 3 to the effect that the jurisdiction of British Government shall not be introduced into the territories of Sirohi but the Rulers thereof shall at all times attend to the advice of the officer of the British Government in the administration of their affairs and act in conformity thereto. |
| 41 | Baneres United Provinces | 13 | The family domains of the Raja were in the possession of the Raja of Benares who was treated as a Zamindar. He exercised revenue powers of a collector and was subordinate to a Superintendent appointed by Government. In Civil matters there was appeal to the Superintendent and the Board of revenue. The criminal administration was in the hands of the Magistrate of Benares. ( At. Vol. 1 P. 54.) |
| 42 | Bhavnagar (Kathiawar) Agencp | 13 | State with first class Jurisdiction. ( At. Vol. VI. Page 83 ). |
| 43 | Cooch Behar or Kuch Behar Bengal | 13 | British Government came in contact with Kuch Behar in 1772. By the treaty of 1773 the Raja acknowledged the subjection to the British Government; onehalf of the revenue was ceded to the British Government. The Sanad of 1776 contained the following conditions. "That observing the duties and usages of the office and the rules of the truth and dignity he ( the Raja ) departs not in the minutest particular from a vigilant and prudent conduct but avoiding sloth by consulting the interests of the Ryots and inhabitants and conciliating their affection |

NATIONAL ARCHIVES OF INDIA

| Political Practice. | Remarks. |
|---|---|
| In 1854 the State was taken under the direct management for the liquidation of debts.<br>In 1865 the State again was in disorder and the Rao was warned to reduce his expenditure and discharge the liabilities of the State.<br>( At. Vol. III P. 151 ) | Political Practice |
| The State was recently created. Information of treaties is not available. | |
| In 1778 disturbances ensued; a British commission was appointed to manage the State.<br>In 1802-5-13-17. British Commissioners were appointed to supervise the administration.<br>In 1880 during the minority of the ruler the State was managed by the British Commissioner. | Treaty Obligation |

NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| | | | that he so conduct himself that his utmost endeavours may be exerted for the increase of cultivation and the improvement of the revenue. ( At. Vol. I, 3rd edition P. 104.) |
| 44 | Dhragandhra (Kathiawar) Agency | 13 | State with First class Jurisdiction. ( At. Vol. VI Page 82 ). |
| 45 | Jaora (Malwa Agency) | 13 | Nominally subordinate to the Indore State. ( At. Vol. IV P. 374 ). |
| 46 | Jhalwar (Punjab) | 13 | By the treaty of 1838, article 9 it is stated that the Raja and his heirs and successors shall remain absolute Rulers of the country and the civil and criminal jurisdiction of the British Government shall not be introduced in the principality, ( At. Vol. III P. 394 ). In the Sanad of 1899 when the chiefship of Jhalwar was reconstituted the following condition was inserted. The Administration of the said State shall be conducted subject to such degree of supervision and political control exercised in such manner as the Governor-General in Council may from time to time determine. ( At. Vol. III Page 403 ). |
| 47 | Jind (Punjab) | 13 | The Sanad of 1847 contained a stipulation that His Highness will exert himself to do justice and to promote welfare and happiness of his subjects. ( At. Vol. VIII P. 262 ). |
| 48 | Junagad (Kathiawar Agency) | 13 | State with First class Jurisdiction. ( At. Vol. VI Page 83 ). |

NATIONAL ARCHIVES OF INDIA

| Political Practice. | Remarks. |
|---|---|
| In 1894, the Raja was granted full powers. He failed however to govern the State properly and was deposed in 1896. | Political Practies |
| | Treaty Obligation |
| | Treaty Obligation |



NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State. | Number of Salutes of Guns | Treaties. |
|---|---|---|---|
| 49 | Kapurthala (Punjab.) | 13 | In 1845 a Sanad of confirmation was issued on condition of good conduct and good management, ( At. Vol. VIII P. 353 ). |
| 50 | Nabha (Punjab.) | 13 | The Sanad of 1860 contained the clause that the Rajasaheb Bahadur will exert himself by every possible means in promoting the welfare of his people and the happiness of his subjects and redressing the grievances of the oppressed and injured in the proper way. ( At. Vol. VIII Page 289. ) |
| 51 | Nawanagar (Kathiwar Agency. ) | 13 | State with First class Jurisdiction. (At. Vol. VI P. 83.) |
| 52 | Palanpur (Kathiawar Agency.) | 13 | State with First class Jurisdiction. |
| 53 | Porbunder (Kathiawar Agency.) | 13 | State with First class Jurisdiction. |

NATIONAL ARCHIVES OF INDIA

| Political Practice. | Remarks. |
|---|---|
| | Treaty Obligation |
| | Treaty Obligation |
| By the agreement of 1812 pecuniary demands of the Rao of Cutch were to be answered according to the equitable consideration. The Jam was required to pay 15 lacs of covries for the expenses of the Army. A fine of 5000 Rupees was levied for breach of infanticide engagement. A fine of one lakh was ordered to be paid to the Gaikwar Government for his aggressive conduct.<br>( At. Vol. VI. Page 180. ) | Political Practice |
| From 1848 to 1874 the control of the British Government over the finances of Palanpur was very minute.<br>( At. Vol. VI P. 234. ) | Political Practice |
| In 1869 this first class State was reduced to third class as a punishment of an act of cruelty committed by the Chief.<br>In 1886 the Rana having turned a deaf ear to all remonstrances addressed to him regarding persistent maladministration was finally deprived of all his powers and a British Officer was appointed to administer his State.<br>In 1900 the first class powers were restored to the successor of the old Chief.<br>( At. Vol. VI P. 991. ) | Political Practice |

NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| 54 | Rajputana ( Rewa-kantha Agency.) | 13 | State with First class Jurisdiction. |
| 55 | Ratlam (Malwa.) | 13 | Mediatized chief. |
| 56 | Tipperah (United Province.) | 13 | In 1765 Tipperah came under British rule. In 1870 the position of the Raja was declared to be that of a feudatory. |
| 57 | Agaigarh Bundel-khand.) | 11 | In 1812 a Sanad was issued in which the duties required from the said Raja were that he shall cultivate and improve the villages granted to him and protect and satisfy the cultivators and inhabitants by every means in his power, contribute to their comfort and enjoy the possession in loyalty and due obedience to Government. ( At. Vol. V P. 157.) |
| 58 | Alirajpur ( Central India.) | 11 | It had to pay tribute to Dhar which was subsequently seceded through the medium of the British Government. |
| 59 | Baoni (Maho-medan) Bundel-khand. | 11 | The Ruler admitted to consider him-self to be amenable to all rules and forms of Justice which are admitted by other chiefs of Hindustan. His title to his Jahagir was confirmed by the Governor-General in 1806. ( At. Vol. V P. 215. ) It was virtually a creation of British Government. |

NATIONAL ARCHIVES OF INDIA

| Political Practice. | Remarks. |
|---|---|
| In 1855 the mis-government and contumacy of the Ruler led to the attachment of the State.<br>In 1859 Government interfered to suppress Bhill disturbances.<br>From 1884 to 87 the State was under the administration of the Political Officer and the Raja was deprived of his power.<br>( At Vol. VI. P. 326 ). | Political Practice |
| In 1889 a minister with full powers of administration was appointed for five years to introduce much needed reforms. The selection was to be made by the Maharaja in consultation with the Political Agent. | Political Practice |
| | Treaty Obligation |
| In 1869 the Ruler was deposed for incompetancy. Succession to the gadi was determined by the British Government. In 1878 the British Government placed on the Gadi the Raja by name Pratap Sing as its own selection and not in consequence of any relation with the late chief.<br>( At. Vol. IV P. 478. )<br>Criminal powers were confirmed on the Nabab and full jurisdiction was conferred in 1887. The title of Nabab was confirmed by the British Government.<br>( At. Vol. V P. 41. ) | Political Practice |

NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| 60 | Barvani ( Central India. ) | 11 | |
| 6 | Bijawar (Bundelkhand.) | 11 | The Sanad of 1811 contains a statement that the Raja shall exert himself to the utmost to cultivate and improve the lands and villages and to promote the prosperity of the inhabitants. ( At. Vol. V P. 145. ) |
| 62 | Bilaspur (Punjab.) | 11 | In the Sanad of 1847 there is a distinct condition that the Raja shall promote the welfare of his people to improve the condition of his country to adopt measures to increase the cultivation, to redress grievances, to maintain lawfull rights and to keep the roads secure. He shall not exact money from his subjects but treat them with kindness. (At. Vol. VIII P. 323.) |
| 63 | Cambay ( Bombay Presidency. ) | 11 | In 1819 the Nabab was obliged to leave the capital in consequence of the occupation of Cambay by a riotous mob. The administration was handed over to an officer of the Government with the consent of the chief.<br>In 1894 the chief agreed to all the conditions laid upon him. He bound himself<br>( 1 ) to respect and maintain all title deeds and claims and all settlements of Land Revenue.<br>( 2 ) to seek and follow the advice of the Bombay Government with reference of the revision of the Revenue survey.<br>( 3 ) Not to remove the Diwan without the sanction of the Bombay Government.<br>( 4 ) To submit an accurate report of the administration every year in the |

NATIONAL ARCHIVES OF INDIA

| Political Practice. | Remarks. |
|---|---|
| In 1861 British Government took the state under its management owing to the incapacity of the Rana. ( At. Vol. IV P. 480–81.) | Political Practice<br>Treaty Obligation |
| | Treaty Obligation |
| | Treaty Obligation |

NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| | | | prescribed form.<br>( 5 ) To confirm at all times to such advice as the Government of Bombay may offer in regard to any objects connected with the advancement of his interest and the happiness of his subjects.<br>( At. Vol. VII P. 58-61.) |
| 64 | Chamba (Punjab.) | 11 | In 1847 an agreement was concluded in which it was stipulated that if under any of the Raja mis-government should exist, the Government may depose the Raja : and place on the gadi any other of the family. He agreed to exert himself to the utmost to promote the welfare and happiness of his people to increase the cultivation of the territory and to administer justice to all.<br>In the 5th article it was stated that it is not the object of the British Government to take the country into its hands. The only thing it has in view is that from the good management of the territory and the impartial administration of Justice the people should continue to enjoy peace and happiness.<br>(At. Vol. VIII P. 365.) |
| 65 | Charkhari (Central India.) | 11 | By the treaty of 1804 it was laid down that the protection of the peasantry and subjects of all ranks from oppression is the uniform object of the British Government wherever its authority extends and therefore it is indispensible on the part of the Raja that he should conduct himself so with regard to his peasantry as that they may be satisfied and no complaints may be made.<br>( At. Vol. V P. 127-128.) |
| 66 | Chhatarpur ( Bundelkhand. ) | 11 | It is a sanad State. The sanad of 1854 mentions that it is incumbant on the Raj to conciliate and render grate- |

NATIONAL ARCHIVES OF INDIA

| Political Practice. | Remarks |
|---|---|
| | Treaty Obligation |
| | Treaty Obligation |
| The Rajah was given under certain conditions power to exercise criminal jurisdiction over heinous offences within his State. These powers are not | Treaty Obligation |



NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| | | | ful the peasantry and inhabitants by his good government, devote his endeavours to increase the population and to enhance the prosperity of his Jahagir. Complaints shall be investigated. |
| 67 | Faridkot (Punjab.) | 11 | By the treaty of 1863 the Raja and his successors agreed that they exert themselves to execute justice and to promote the happiness and welfare of their subjects. ( At. Vol. VIII P. 299. ) |
| 68 | Gondal (Bombay Presidency.) | 11 | This state e joys first class jurisdiction that is to say to try capital offences without permission from the Political Agent. Atchison Vol. VI Page 81 has observed that before the British Government assumed the supreme authority the Gaikwar had the right of interfering in cases of flagrant abuse of power or notorious disorder in the internal Government of the chiefs. Upon this basis the British Government has been exercising the same powers. |
| 69 | Janjira (Bombay Presidency.) | 11 | |

NATIONAL ARCHIVES OF INDIA

| Political Practice. | Remarks. |
|---|---|
| necessarily transmissible to his successors. ( At. Vol. V. P. 33. | |
| | Treaty Obligation |
| In 1861 a warning was conveyed to the Chief of Janjira in consequence of his oppressive treatment of one of his subjects that the British Government would hold him responsible for any abuse of power which might be brought home to him. Two years later another instance occurred of the cruelty of the Chief which resulted in the death of two men. He was, therefore, deprived of all Criminal Jurisdiction and a British Officer was appointed to the Political charge of the State. Again in 1870 Sidhi Sardars formally deposed the Nabab but the British Officer was deputed to inquire into the relations of the Nabab and his sardars and the Chief was allowed to return and assume powers with proper security for the better management of the State. The conditions | Political Practice |

NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| 70 | Jhabua ( Central India. ) | 11 | |
| 71 | Malerkot ( Muslim State) Punjab. | 11 | No treaty<br>Protection of the British Government was extended to this state.<br>(At. Vol. VIII P. 188.) |
| 72 | Mandi (Punjab.) | 11 | By the treaty of 1845 by the 9th article it was stated that it behoves the Raja to adopt such measures as may tend to the welfare of his people, the prosperity of his country and the improvement of the soil and ensure the administration of evenhanded justice to the aggrieved the restoration to the people of their just rights. He shall not subject his people to extortion but keep them always contented. The treaty also ment oned, be it known to the Raja, that the British Government shall be at liberty to remove any one from the Gadi of Mandi who may prove to be of worthless character and incapable of properly conducting the administration of his State and to appoint such nearest heir to the Raja as may be capable of administration.<br>( At. Vol. VIII P. 364.) |

NATIONAL ARCHIVES OF INDIA

| Political Practice. | Remarks. |
|---|---|
| were insisted with a view to secure the well-being of the people and a better administration of the affairs of the State.<br>(At. Vol. VII P. 130 to 33.) | |
| The State was some years under the direct superintendence of the British Government. n 1365 the Chief permitted the mutilation of a person confined under suspicion of theft and was fined ten thousand Rupees.<br>In 1857 the Chief enjoyed limited Criminal Jurisdiction. The Chief is required to abide by the advice of the Diwan of the State who is appointed by the Political Agent in Bhopawar to submit the Annual Budget to the approval of the Agent to the Governor-General. It is a principal guaranteed chiefship originally tributory to the Holkar.<br>(At. Vol. IV P. 475.) | Political Practice |
| | Treaty Obligation |

NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State | Number of Salutes of Guns. | Treaties |
|---|---|---|---|
| 73 | Manipur Eastern Bengal and Assam | 11 | In 1891 an expedition was sent to Manipur to reassert the Political Supremacy of the British Government. The senapati and the general were hanged for waging war against the queen. A minor was installed on the gadi. The administration of the State was entrusted to a superintendent and political agent who was given full powers to introduce any reforms he considered beneficial.<br>The Sanad issued in 1891 to the new chief contained the following clause.<br>You are informed that the permanence of the grant conveyed to you by the Sanad will depend upon the ready fulfilment by you and your successors of all orders given by the British Government with regard to the administration of your territories and other matters in which the British Government may be pleased to intervene.<br>(At. Vol. II P. 270.) |
| 74 | Morvi Bombay Presidency | 11 | One of the principal Kathiawar States with First class Jurisdiction.<br>(At. Vol. VII) |
| 75 | Narsingarh Central India | 11 | Mediatised chief in the Bhopal agency.<br>(At. Vol. IV P. 319.) |
| 76 | Panna Bundelkhand Central India | 11 | The Sanad of 1807 mentions that with a view to the promotion of the welfare of the inhabitants of this Province a sanad for certain mahals has been conferred.<br>The Sanad of 1807 mentions that with a view that the whole of the inhabitants of this province both high and low may pass their days in security and happiness under the benign protection of the British Government, it is indispensible, therefore |

NATIONAL ARCHIVES OF INDIA

| Political Practice | Remarks |
|---|---|
| | Treaty Obligation |
| In 1902 Raja Madhosing was deposed for complicity in the death of his uncle. He was interned at Bellary. | Treaty Obligation |

NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| | | | on your part to conduct yourselves on the same principles. (The protection of the peasantry and the subjects of all the rank from oppression is the uniform object of the British Government wherever its authority extends). With regard to your peasantry no complaints to be made.<br>Another sanad of 1811 enjoins the Raja to exert himself to the utmost of his power in the cultivation and improvement of his possessions and to pay attention to the prosperity and contentment of his people.<br>(At. Vol. V P. 111-12.) |
| 77 | Paducota Madras | 11 | The District of Kilaneth was ceded to the Raja on condition that it was not to be alienated and that it should revert to the British Government upon satisfactory proof being given that the inhabitants were subjected to any oppressive system of management (1803).<br>(At. Vol. X P. 95.) |
| 78 | Radhanpur (Palanpur Agency) | 11 | State with *First* class jurisdiction was subordinate to Gaikwar in external matters.<br>(At. Vol. VI P. 236.) |
| 79 | Rajgarh (Bhopal Agency) | 11 | |
| 80 | Sailena | 11 | Mediatised Chief<br>Note :—None of the mediatized chiefs in Central India have power of life and death. They must submit all trials of heinous crimes and all sentences of death or transportation or imprisonment for life to the local |

NATIONAL ARCHIVES OF INDIA

| Political Practice. | Remarks. |
|---|---|
| In 1841 during the minority of the ruler, in consequence of representations of injustice made by relations of the Raja, the Resident interfered and framed rules for guidance of the administration.<br>In 1850 owing to the extravagance of the ruler the Political Agent interfered and the Raja was deprived of his salutes and the personal title of his excellency.<br>In 1884 salutes of eleven guns were given and the title of His Excellency abolished and hereditary title of His Highness conferred.<br>(At. Vol. X P. 97.) | Political Practice |
| In 1846, the British Government interfered in consequence of the mismanagement of the State.<br>( Vol. IV P. 317. ) | Political Practice |



NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| | | | Officers of the British Government. (At Vol. IV P. 7.) |
| 81 | Samthar (Bundelkhand.) | 11 | Only treaty of friendship and alliance. (At Vol, V. P. 102). |
| 82 | Sirmur (Punjab.) | 11 | In the treaty of 1850 there is a condition that the Raja must promote the welfare of the Ryots and the extension of the cultivation and distribute Justice and look to the security of Roads and not exact more from the Ryots than their engagements and make all the people happy and contented. (At. Vol. VIII P. 307.) |
| 83 | Sitamahu (Malwa.) | 11 | Mediatized chief of the first class. (At. Vol. IV P. 387.) |
| 84 | Suket (Punjab.) | 11 | The treaty of 1846 lays down, it behoves the Raja to adopt such measures as may tend to the welfare of his people, the prosperity of his country and the improvement of the soil and to ensure the administration of even handed Justice to the agrieved, the restoration to the people of their Just rights and the security of the roads. He shall not subject his people to extortion but keep them always contented. (At. Vol. VIII P. 394.) |
| 85 | Teheri (United Provinces.) | 11 | The sanad of 1820 contains the following understanding. The Governor General in Council has conferred on the Raja and his heirs and successors in perpetuity the country on the condition that it will be the duty of the Raja to make such settlement of the country now conferred on him as shall be calculated to promote the happiness and welfare of the inhabitants and to govern his subjects with |

NATIONAL ARCHIVES OF INDIA

| Political Practice. | Remarks. |
|---|---|
| | Treaty Obligation |
| In 1878, the Raja was deposed, for his incapacity to govern his State. | Treaty Obligation |
| | Treaty Obligation |

NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| | | | justice and to collect the revenues which he will appropriate to his use. (At. Vol I P. 34.) |
| 86 | Balsinor (Rewa-kantha Agency.) | 9 | State with 2nd class Jurisdiction, Tributary to Gaikwad and Peshwa. (At. Vol. VI P. 332.) |
| 87 | Banaganapalli (Madras) Mahomedan State | 9 | In 1761 the Nizam appointed one Husain Alikhan as Jilahdar and Faujadar of Banganpalli. A few years afterwards the country fell under the dominion of Mysore. In 1783 Tipu conferred a Jahagir on Husain Ali. In 1783 Tipu ordered confiscation of the Jahagir. In 1790 Tipu was defeated and when the territory went under the control of the British Government by the treaty of 1800 the Jahagir of Banganpalli was allowed to remain with the then ruler subject to the paramount authority and control of the East. India Company as sovereign. The Jahagir was resumd in 1832. From 1835 to 1848 the State was administered by the Madras Government. In 1848 the Jahagir was restored to Husain Alikhan the then ruler.<br>In 1849 a sanad was given. It conferred powers of general administration of revenue and police of the Jahagir and the duty of administering civil justice.<br>In criminal justice the power of capital punishment was not given. The sanction of Government was necessary.<br>The sanad contained the following condition. You shall be answerable to the Hon. Company for the good Government of your Jahagir and if ever it should happen that in consequence of |

NATIONAL ARCHIVES OF INDIA

| Political Practice | Remarks. |
|---|---|
| In consequence of Saiyid Fateah Alikhan's misgovernment he was removed in 1905 from the direct administration of the State which was placed under the management of an assistant Political Agent.<br>(At. Vol. X P. 103.) | Treaty Obligation |

NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| | | | misgovernment the interposition of the Hon Company should become necessary, the Governor in Council will in such a case take such a measure as may appear just and proper for restoring order and for providing for the security of the people. (At. Vol. X P. 104.) |
| 88 | Bansda (Surat Agency.) | 9 | State under British management from 1829 to 1852. Second Class Jurisdiction. (At. Vol. VII P. 95.) |
| 89 | Bariya (Rewakantha Agency.) | 9 | 2nd class Jurisdiction. (At. Vol. VI P. 328.) |
| 90 | Chota Udepur (Rewakantha Agency.) | 9 | 2nd class Jurisdiction. (At. Vol. VI P. 326.) |
| 91 | Danta (Mahikantha Agency.) | 9 | 2nd class Jurisdiction, (At. Vol. VI P. 280.) |
| 92 | Dharampur (Surat Agency.) | 9 | Second class Jurisdiction. (At. Vol. VII P, 95.) |
| 93 | Dhrol (Kathiawar Agency.) | 9 | 2nd class Jurisdiction. (At. Vol. VI P. 105.) |
| 94 | Jawhar (Bombay Presidency.) | 9 | The treaty of 1822 contains a stipulation that the Ruler will personally exert to the maintenance of peace and welfare of the territory under the Sansthan, will look to the bringing of land into cultivation as its appearance indicates great furtility. Second class Jurisdiction. (At. Vol. VII P. 120.) |

NATIONAL ARCHIVES OF INDIA

| Political Practice | Remarks |
| --- | --- |
| | Treaty Obligation |

NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| 95 | Khilchipur (Bhopal Agency.) | 9 | Mediatized chief tributary to Gwalior State. ( At. Vol. IV P. 320. ) |
| 96 | Limdi (Katiawar Agency.) | 9 | 2nd class State. ( At. Vol. VI P. 106. ) |
| 97 | Loharu (Punjab.) | 9 | This State was a grant of the British Government as a reward for services. The Parwana of 1806 issued by Lord Lake contains an undertaking that the British Government will have no concern however with these Mahals and as these lands require the exercise of arbitrary power no complaint will be received from the inhabitants of the same. ( At. Vol. VIII P. 130. ) |
| 98 | Lunawada (Rewa-kantha Agency.) | 9 | 2nd Class Jurisdiction. ( At. Vol. VI P. 330. ) |
| 99 | Maiher (Bundel-khand.) | 9 | Sanad of 1814 contains a clause that the Thakur should consider his duty to devote himself to the amelioration and improvement of his lands rendering the inhabitants contented and grateful by his management. ( At. Vol. V P. 264. ) |
| 100 | Mudhol (S. M. C.) Bombay Presidency. | 9 | The seventh article of the treaty of 1819 says:—you will attend to the prosperity of the Ryots of your Jahagir, to the strict administration of Justice and the effectual suppression of robberies and other crimes ; should that not be done and the Government gives orders regarding any complaint made in your Jahagir, you will act accordingly in the settlement of the matter. Any decision of Government regarding the administration of Justice |

NATIONAL ARCHIVES OF INDIA

| Political Practice. | Remarks. |
|---|---|
| In 1849 the State was under British management as it was involved in debt.<br>At. Vol. V. P. 226. | Treaty Obligation |
| | Treaty Obligation |



NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| | | | which may be made on investigation must be duly executed.<br>Article six says :—You will continue all rights within your Jahagir whether belonging to the State or individuals all Doomala, saranjam, Inam villages and lands, all Varshasans, Dharmadaya Rozeenah, Khyrats, Nemanuks,<br>( At. Vol. VII. P. 289. ) |
| 101 | Palithana (Kathiawar Agency.) | 9 | 2nd class Jurisdiction.<br>( At. Vol. VI P. 105. ) |
| 102 | Rajkot (Kathiawar Agency.) | 9 | 2nd class Jurisdiction.<br>( At. Vol. VI P. 108 ). |
| 103 | Sachin (Surat Agency.) | 9 | Second Class Jurisdiction.<br>State under British management from 1829 to 1864 and from 1896 to 1906.<br>( At. Vol. VII. P. 91 ) |
| 104 | Sangli (S. M. C.) Bombay Presidency. | 9 | The treaty of 1819 contains the following article No. 4. you will attend. to the prosperity of ryots of your Jahagir to the strict administration of justice and the effectual suppression of robberies and other crimes. This article is an essential condition of the present agreement and you must therefore indispensably maintain the good order of your country.<br>Article 5-you will continue all rights within your jahagir whether belonging to the State or to individual all Doomallee, Saranjam, Inam villages and lands all varshasans, Dharmadags, Devasthans, Rozeenah, Khyrats, Nemanuks etc. and if in any perticular instance any interruption shall have been offered to a grant not annulled by government such grant shall like wise be made good without |

NATIONAL ARCHIVES OF INDIA

| Political Practice. | Remarks. |
| --- | --- |
| | Treaty obligation. |

NATIONAL ARCHIVES OF INDIA

| S. No. | Name of the State. | Number of Salutes of Guns. | Treaties. |
|---|---|---|---|
| | | | hindrence to the proprietor. No Complaints on this head are to be suffered to reach the government. ( At. Vol. V II P. 270 ) |
| 105 | Savantwadi (Bombay Presidency.) | 9 | Treaty of protection concluded in 1119. The Ruler was warned about mismanagement between 1822 to 1838. From 1838 upto 1926 the State was under British management. ( At. Vol. VII P. 291 ) |
| 106 | Sunth (Revakantha Agency.) | 9 | Second Class jurisdiction. ( At. Vol. VI P. 324. ) |
| 107 | Wankaner (Kathiawar Agency.) | 9 | 2nd class Jurisdiction. ( At. Vol, VI P. 83. ) |
| 108 | Wadhwan (Kathiawar Agency.) | 9 | 2nd class Jurisdiction. ( At. Vol. VI P. 85. ) |

NATIONAL ARCHIVES OF INDIA

| Political Practice. | Remarks. |
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| | Political Practice |

NATIONAL ARCHIVES OF INDIA

# ANALYSIS.

In this statement At. denotes Aitchison's Treaties. Engagements and Sanads, fourth Edition 1909. As regards Vol. I and IX the third edition of 1892 is referred to.

Political practice is the heading which shows the exercise of Suzerain power in the internal administration of a State whenever there was maladministration, gross misrule, financial embarrassment, rebellion of subjects or heinous offences committed by the Ruler. This interference has taken place to secure good government and the welfare of the people and to keep the integrity of the State in tact. This right is exercised under the inherent powers of a suzerain and it exists independently of the treaties. The statement shows that this right is exercised in the case of 37 States. Instances in which the Paramount Power has interfered to safeguard the financial interests of British India, though coming under the term of Political Practice, have not been noted. Closing of the mints in the Indian States, abolition of the manufacture of salt, restrictions on production and consumption of opium and Ganja, farming out of the Abkari Revenue, cessation of jurisdiction over lands occupied by railway lines when running through the limits of the States and abolition of export and import duties and all inter-statal tariff barriers are all instances of interference of the Paramount Power to advance and protect Imperial interests of British Government. They are not included in the Statement under the heading Political Practice.

Treaty obligation means where there is an express undertaking in the treaty concluded with a State or in any sanad granted to a State whereby the duty of maintaining good government, improving cultivation, distributing equal justice and securing the contentment and happiness of the people is specifically imposed on the ruler. There are 32 States in the Treaties of which specific obligation of maintaining good government is laid down.

As regards Benares it was recently created and as no authentic information is available, none is given.

There are 20 States in Kathiawar and other agencies of the Bombay Presidency about which no remarks have been made.

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They are Gondal, Morvi, Radhanpur, Balsinor, Bansda, Bariya, Chhota-Udaipur, Danta, Dharampur, Dhrol, Limdi, Lunawada, Palithana, Rajkot, Sachin, Sunth, Wankaner, Wadhawan, Dhrangadhra and Bhavnagar.

As regards these Kathiawar States the following statement from Aitchison would be of use to ascertain their sovereign character. "Inquiries which had been instituted in 1825 showed that the Kathiawar Chiefs believe the sovereignty of the country to reside in the power to whom they pay tribute. That before the British Government assumed the supreme authority, the Gaekwar had the right of interfering to settle disputed succession and to punish offenders, seized in Chiefship of which they were not subjects, to seize and punish indiscriminate plunderers, to coerce Chiefs who disturbed the general peace and to interfere in cases of flagrant abuse of power or notorious disorder in the internal Government of the Chiefs. Upon this basis therefore of these rights of the supreme power the British Government acted towards these States. In 1863 the administration was reorganised by arranging in seven classes all the Chiefs in Kathiawar defining their powers and the extent of their jurisdiction. There are seven Chiefs in Kathiawar namely Junagarh, Nawangar, Bhavngar, Porbunder, Dhrangadhra, Morvi and Gondal who exercise First-Class Jurisdiction; that is to say have to try for capital offences without premission from the Political Agent any person except British subject. Second Class jurisdiction States mean States which have power to try for Capital offences their own subjects. As a rule there is no appeal from the decisions of the Chiefs but their proceedings may be called for and reviewed on suspicion of injustice ( At. Vol. VI P. 81-83 ).

The same observations apply to States situated in Surat, Revakantha, Mahikantha Agencies. These States were once feudatories of Gaekwar and had to pay tribute to the Gaekwar. They now also have to pay tribute to the British Government, to the Gaekwar and some of them have to pay it to the Nawab of Junagarh.

Of the remaining 18 States, Dholpur, Dhar and Baoni are virtually the re-grants of the British Government; and Loharu is a grant of the British Government as a reward for services Sitamau Sailana, Ratlam, Narsingarh, Dewas (Junior) are mediatized Chiefs. Jaora is nominally a subordinate to the Indore State. Khilchipur is mediatized Chief tributory to Gwalior State. Bundi, Datia, Orcha, Kishangarh, Jasalmir, Maler-kotah and Santhar are smaller treaty States in whose case their was no occasion for any political practice; but they are all in subordinate co-operation

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with the British Government and are liable to the interference of the Paramount Power if any necessity arises for the same.

The following summary gives at a glance the position of these 108 States:–

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| 32 | States with treaty obligations. |
| 37 | States with Political Practice. |
| 20 | States included in Kathiawar and other Agencies of I and II Class Jurisdiction in the Bombay Presidency. States admitedly enjoying qualified sovereignty. |
| 3 | States which are virtually re-grants of the British Government. |
| 1 | State which is a grant of the British Government. |
| 7 | States mediatized Chiefs and Feudatories of other States. |
| 7 | States have got treaty rights but without any political practice followed in them; but in subordinate co-operation with the British Government. |
| 1 | No information about Benares is available, |
| 108 | |

This analysis would show the position of the members of the Chamber of Princes and how their sovereignty even in domestic affairs is limited. If the treaties and engagements and the political practice in connection with other States are carefully studied they would also bear out the same proposition. It is, therefore, earnestly requested whenever the cry of treaty rights in danger is raised by the Princes, the treaties and engagements concluded with them and the political practice followed in connection with their States should be carefully ascertained before forming any opinion. Treaties are always solemn documents and are binding on all governments whether of the present or of the future. Before alleging any violation of treaty rights it is necessary to ascertain the specific obligations contained in the treaties and bear in mind the duties of the suzerain power and the feudatory States which exist independently of any treaties.

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# Direct relations with the Crown.

## ( Theory exposed )

Dr. KEITH.

The first point raised by the Indian Princes is, that their relations are with His Majesty and not with the Government of India. This position, it appears, is based upon a statement contained in a volume of the "British Empire Survey Series" written by Dr. Keith called 'the Constitution, Administration and the Laws of the Empire.' At page 250 Dr. Keith observes, "It is important to note that the relations of the Native States, however conducted, are essentially relations with the British Crown and not with the Indian Government and that this fact presents an essential complication, as regards the establishment of responsible Government in India. It is clear that it is not possible for the Crown to transfer its rights under a treaty, without the assent of the Native States to the Government of India under responsible Government."

This Statement has since then been repeated by reactionary bureaucrats and by the supporters of autocracy. In his recent pronouncement the Maharaja of Patiala stated that between the British Crown and the States there existed sacred ties of obligations mutually pledged. This is very ambiguous. We are aware that this statement of Dr. Keith forms the main prop for the theory of direct relations of which we have been hearing so much recently. We, however, maintain that the position as defined by him does not seem to be borne out by Indian history. So far as this subject is concerned the history of the Indian States can be split up into three periods:—(1) from the granting of the Charter to the East India Company to the passing of the Regulating Act 1773, (2) from 1773 to 1858 when the government of India was transferred to the Crown and (3) the period since 1858 upto the present time. We propose to examine who conducted and controlled the relations of the Indian States during these periods.

### THE FIRST PERIOD.

Let us for the moment confine our attention to the first of these three periods. It was on 31st December 1600 that Queen Elizabeth

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granted the Charter to the United Company of Merchants trading with the East Indies and styled as the East India Company. This charter was renewed by James I, by Charles II, by James II and the last one issued by the Stuarts was in 1687. It was after the Revolution of 1688 that the prerogative of the Crown to grant such monopolies of trade was seriously questioned and in 1693 Parliament passed a resolution that all subjects of England have equal rights to trade to the East Indies unless prohibited by an Act of Parliament. It has ever since been held to be the sound doctrine that no power but that of the whole legislature can give to any person or to any Society an exclusive privilege of trading to any part of the world. The first Act of Parliament regulating the trade of the East India Company was passed in 1698.

After this period the charters were renewed upto 1767 when for the first time the position of the Company as an influential territorial power was recognised by an Act of Parliament. This was after the Company had secured the grant of the Diwani or the fiscal administration of Bengal, Bihar and Orissa in 1765 from the Mogul Emperor. The Act of 1767 distinctly mentions that the monies which will still be received by the East India Company in pursuance of this Act shall be reserved to be disposed of and appropriated by Parliament. Every advantage, therefore, which was secured for the assistance which Parliament rendered to the East India Company was reserved for the benefit not of the Crown but of the whole nation as represented by Parliament. The territorial acquisitions which were made by the Company during this first period were entirely at the initiative of the Court of Directors who were all in all. The negotiations which they carried on with the Indian States in this period, and the treaties and engagements they concluded with them depended solely on the authority of the Court of Directors. Beyond issuing a charter from time to time to the Company, the Crown did not exercise any authority, much less any initiative; still less it did not superintend, direct or control the relations with the Indian States. Their relations were not with the Crown but with the East India Company through its Directors. Edmund Burke has graphically described this position in the following words. "The East India Company had its origin about the latter half of the reign of Queen Elizabeth, a period when all sorts of companies, inventions and monopolies were in fashion. At that time the Company was sent out with large extensive powers for increasing the honour and commerce of this country. For to increase its commerce without increasing its

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honour and reputation would have been thought at that time and will be thought now a bad bargain for the country. But their powers under the Charter were confined merely to commercial affairs. By degrees as the theatre of the operation was at a distance, as its intercourse was with many great, some barbarous and all of them armed nations, where not only the Sovereign but the subjects were armed in all its places, it was found necessary to enlarge their powers. The first power they obtained was a power of naval defence in their ships—power which has been since dropped. The next was a power of Law Martial. The next was a power of civil and to a degree of criminal jurisdiction within their own Factory, within their own settlements, over their own people and their own servants. The next was—and there was a stretch indeed—the power of peace and war—those great high prerogatives of sovereignty which were never known before to be parted with to any subjects. But those high powers were given to the East India Company so that when it had acquired them all which it did about the end of the reign of Charles the Second., the East India Company did not seem to be merely a Company formed for the extension of British commerce but in reality a delegation of the whole power and sovereignty of this kingdom sent to the East. In that light the Company began undoubtedly and ought to be considered as a subordinate sovereign power—that is sovereign with regard to the objects which it touched and subordinate with regard to the power whence this trust was derived. The constitution of the Company began in commerce and ended in Empire." This genesis of the Company and its territorial acquisitions so happily described clearly brings home the sovereign powers which the Directors of the Company enjoyed. Under the authority of the Charter they touched the Indian States and dealt with them as a sovereign power would do. In their dealings with the States the Crown of England either in its individual capacity or as the head of Parliamentary Government did not in the least interfere; and it was for this reason that the Company virtually made and unmade Nabobs and Princes, humbled great Rulers of Indian States, braved even the Emperor of Hindustan. In fact, as remarked by Lord Macaulay, "It was considered both by Lord Clive and by Warren Hastings to leave the Charter of the Company thus undefined in order that the English might treat the Princes in whose names they governed as entities or non-entities, just as might be most convenient. Lord Macaulay pertinently observes that the Indian Empire is itself the strongest of all Political anomalies.

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A Parliamentary Committee was appointed of which Edmund Burke was the chairman and as a consequence of the investigations made, a resolution was moved by Mr. Burke in 1784 which forcibly describes the irresponsible character of the administration conducted by the East India Company. The terms of the resolution were as below. "The result of the Parliamentary inquiries has been that the East India Company was found totally corrupted and totally perverted from the purposes of its institutions whether political or commercial; that the powers of war and peace given by the charter had been abused by kindling hostilities in every quarter for the purposes of rapine; that almost all the treaties of peace they have made have only given cause to so many breaches of public faith; that countries once most flourishing are reduced to a state of indigence, decay and depopulation to the dimunition of strength and to the infinite dishonour of our national character; that the laws of this kingdom are notoriously and almost in every instance despised; that the servants of the Company by the purchase of qualifications to vote in the general Court and at length by getting the Company itself deeply in their debt having obtained the entire and absolute mastery in the body by which they ought to have been ruled and coerced; thus their malversations in the office were supported instead of being chequed by the Company; the whole of the affairs of that body are reduced to a most perilous situation; and many millions of innocent and deserving men who are under the protection of this Nation and who ought to be protected by it are oppressed by a most despotic and rapacious tyranny; the Company and their servants have strengthened themselves by this confederacy; they have set at defiance the authority and admonitions of the House employed to reform them; and when the House had selected certain principal delinquents whom they declared it the duty of the company to recall the Company held out its legal privileges against all reformation, positively refused to recall them and supported those who had fallen under the just censure of this House with new and stronger marks of approbation."

This indictment on the administration of the East India Company shows how irresponsible its authority was and how it carried on the work of aggrandisement and territorial acquisitions without any let or hindrance. The pertinent point is, that during this first period the Indian States had absolutely no direct relations with the Crown, that treaties with them were not concluded after any consultation, sanction or ratification of the Crown; in fact in the internal affairs of the Company the Crown did not at all interfere.

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## THE SECOND PERIOD.

In this Parliament undoubtedly controlled the affairs of the East India Company by passing several acts. The Regulating Act of 1773, Pitt's Act creating the Board of Control in 1784, the Charter Act of 1793, 1813, 1833 and 1858 unmistakably point out that Parliament exercised its fullest control, and held periodical inquiries about the affairs of the East India Company before renewing the charters. By the very first Act the Governor General in Council was created for the Presidency of Bengal in whom the superintendence, direction and control of all the civil and military government of that Presidency vested. The power of superintending and controlling the government and of management of the Presidencies of Madras and Bombay was also entrusted to this Governor-General in Council. These Governors-General in Council were directed and required to pay due obedience to all such orders as they should receive from the Court of Directors. Although this appointment of the Governor-General was made by the Executive Government in England, the Governor-General was removable upon the representation made by the Court of Directors. The British Government asserted in the clearest manner their right to control Indian policy by subjecting the Directors of the East India Company to the supervision of a new Department called the Board of Control. In 1793 this Department, hitherto under a Secretary of State and Chancellor of the Exchequer, was recognised by the appointment of a President who became a Minister responsible to Parliament for the conduct of British relations with India. From this time onward the Government in India was under the control and supervision of two authorities, viz. The Board of Control and the Court of Directors and all the evils of a double Government were experienced during this period. In 1784 Parliament passed an Act—this was substantially re-enacted in 1793—to the effect that schemes of conquest and extension of dominion in India are measures repugnant to the wish, the honour and the policy of this nation. In spite of this Parliamentary mandate schemes of conquest and territorial acquisition went on. The manner in which the East India Company managed its affairs during this second period has been graphically described by Sir George Lewis the then Chancellor of the Exchequer in the House of Commons in the debate on the Government of India Act of 1858. "In spite of the distinct, repeated and peremptory instructions of the trading Directors in England not to acquire territory successive acquisitions were made by Lord Clive, Warren Hastings and other men

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acting according to their own policy and in spite of uniform direction from Home. That Empire resulted in fact from the irregular and insubordinate energy of some of their servants using indeed the instruments which the constitution of the Company placed in their hands. Even after the Board of Control was created, successive Governors-General were appointed under the influence of the Executive Government at Home. The Governor-General who may be said to be the second founder of our Indian Empire was Lord Wellesley. He went out to India not by the nomination of the Court of Directors but by that of the Executive Government. At that time he was under the restraint of the clause in the Act of Parliament passed expressly in 1784 to prevent territorial acquisitions in India. He evaded that Act by the system he introduced of the Subsidiary Treaties. By that system the acquisition of the territories was avoided but the Army and consequently the real sovereignty of the country passed under the power of the English Government." John Bright speaking on the second reading of the Government of India Act described the irresponsible position of the Governor-General in the following words :— "The immense Empire that has been conquered is too vast for management and its base is in decay and during these last twelve months it has appeared to be tottering to its fall. Who is or what is the instrument, the Cabinet, the Government or the person by whom this evil policy is carried on ? The greatest officer in India is the Governor-General. Now over this officer almost no real control is exercised. Take the case of the Marquis of Dalhousie. The annexation of Satara, of Punjab, of Nagpore and of Oudh occurred during his rule. I will not go into the case of Satara but one of its Princes and one of the most magnanimous Princes that India ever produced, suffered and died most unjustly in exile either through the mistakes or the crimes of the Government of India. As to the annexation of Nagpore the House has never heard anything upto this hour. There has been no message from the Crown or statement of the Government relating to that annexation. Honourable members indeed have heard from India that the dresses and wardrobes of the ladies of its courts have been exposed to sale like a bankrupt's stocks in the Haberdasher's shop of Calcutta-a thing likely to incense and horrify the people of India who wtinessed it. The place of the Governor-General is high. His power is too great. Only think of a Governor-General of India writing to an Indian Prince, the ruler over many millions of men in the heart of India 'remember you are but as the dust under my feet.' Passages like these are left out of the despatch

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when laid on the table of the House of Commons. It would not do for Parliament or the Crown or the people of England to know that their officers addressed language like this to a Native Prince. The fact is that a Governor-General of India, unless he be such a man as is not found more than once in a century, is very liable to have his head turned and to form ambitious views which are mainly to be gratified by *successful* wars and the annexation of Province after Province during the period of his rule." These two important speeches delivered by the most distinguished statesmen of the time clearly show who wielded the real power in regard to the States in India in the second period. All the territorial acquisitions in India were the work solely of the Court of Directors before the Control was established and afterwards of the Governor-General. Clive before the Regulating Act, Warren Hastings afterwards and Lord Dalhousie, brought about all these territorial acquisitions, founded this vast Empire, concluded treaties with Indian Rulers on their own authority. It will thus be obvious that the East India Company, through its Court of Directors and the Governors-General removable by the Court of Directors were solely responsible for establishing, shaping and controlling the relations of the Indian States. We have not heard anybody holding the Crown responsible for the policy of annexation, lapse and absorption of the Indian States into British Dominions, and for the insult, humiliation and injury inflicted on Indian Princes during Lord Dalhousie's time. We therefore fail to see how the credit of the treaties and engagements concluded during this period can go to the Crown. The Crown as such even during the second period did not exercise any influence in the affairs of the Indian States. Although the Governor-General was a nominee of the Executive Government of England he acted on his own responsibility oftentimes disregarding the controlling powers of the double Government. But the Executive Government in England did not take any interest in the happenings in the Indian States. The Crown did not during this second period conclude any treaties or engagements directly with the Indian States nor were any treaties and engagements sanctioned, confirmed or ratified by the Crown.

## THE THIRD PERIOD.

The third period is marked by the transfer of the Government of the East India Company from the double control of the Court of Directors and the Board of Control to the Crown. Authough since the Board of Control was created, its President was

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responsible to Parliament, the Executive Government in England did not interest itself in the affairs of India. The Governor General was directly associated with the Court of Diectors to whom he was to pay due obedience, and the Board of Control and the Board of Directors between themselves managed the whole concern, the Cabinet or the constitutional advisers of the Crown being no more than nominally responsible for its administration. The result was that the administration of India became irresponsible. It was therefore thought necessary, nay indispensable, to do away with the double control and to create a Secretary of State assisted by a Council entirely responsible to Parliament who, in his turn, delegated his authority to the Governor General in Council as his Agent. Viscount Palmerston, while introducing the Government of India Act in 1858 made this position perfectly clear. He observed: "The principle of our political system is that all administrative functions should be accompanied by Ministerial responsibility to Parliament, responsibility to public opinion, responsibility to the Crown. I say then, that as far as regards the executive functions of the Indian Government at Home, it is of the greatest importance to vest complete authority where the public have a right to think that comeplete responsibility should vest, and that when as in this country there can be but one governing body responsible to the Crown, to Parliament and to public opinion consisting of the constitutional advisers to the Crown for the time being, so it is in accordance with the principles and practice of our Constitution as it would be in accordance with the best interests of the nation that India, with all its vast and important interests, *should be placed under the direct authority of the Crown, to be governed, in the name of the Crown, by the responsible ministers of the Crown sitting in Parliament and responsible to Parliament and the public for every part of their public conduct.*" This statement lucidly gives the reasons and also the meaning of what is conveyed by the phrase "Transfer to the Crown." The Government of India hereafter was to be controlled by one minister, viz. the Secretary of State for India acting and working as a member of the British Cabinet, responsible to Parliament. This government of this third period was entirely distinct from that carried on by the East India Company in the first two periods. Responsibility to Parliament was not secured in the first two periods; while it was made a pivot on which the constitution was to rest since 1858. It is no doubt true that since the transfer of the government to the Crown, so far as the Indian States were concerned, there was not keen interest evinced by Parliament in their affairs as was the case during the time of the

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East India Company. The numerous debates which were raised by members of Parliament, the agitation of the English organisation called the Indian Reform Society started in the year 1853 with nearly 70 members who were also members of Parliament and the great efforts made by such men as Mr. John Dickinson, Major Evans Bell, &c. undoubtedly prove that a close eye was kept on the affairs of the Court of Directors; and the policy of annexation and lapse pursued by Lord Dalhousie was severely criticised. Since this transfer made the Executive Government in England directly responsible for the Government of India the system of periodical examination into Indian affairs by Parliament was abolished, and Indian States affairs ceased to loom large on the Parliamentary horizon. Whatever that may be, from a constitutional point of view responsibility for the Government of India was fixed on the Secretary of State for India by a statutory provision enacted in the year 1858.

There is considerable misunderstanding about the position of the Crown involved in this transfer. Many Indian Princes are under the belief that the government was transferred from the Company directly to the Crown. They believe, of course erroneously, that the Crown being represented in India in the person of the Viceroy, the Indian Princes are related to the Crown directly through the Viceroy. There is however no justification for thinking so. The Government was not transferred to the Crown in the sense that it was delegated to the House of the Royal family of King George the Fifth but to Crown which is a constitutional phrase for King in Parliament. "The Government, therefore, through and in the name of the Crown, is to be carried on by Ministers, responsible to Parliament and to the public." The reason why the word "Crown" has been used in the phrase "Transfer to the Crown" has been given by Viscount Palmerston in the following words: "I believe that there can be no doubt that, so far as the impression on the minds of the people of India is concerned, the name of the Sovereign of a great Empire like this must be far more respected, far more calculated to produce moral and political impressions than the name of the Company of merchants, however respectable and able they may be. We have to deal in that country with Princes, some ruling independently, some in a state of modified dependance upon us and with feudal Chiefs proud of their position, cherishing traditionary recollections of a wide empire and of great sovereigns to whom their ancestors owed allegiance. How can we expect them to feel any great respect for a mere company of



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merchants? The respect they feel, the allegiance they yield, will increase tenfold if one were given and the other tendered to the Sovereign of a great and mighty empire." This explanation explodes the fallacy, under which the Indian Princes are labouring. It was to pander to their prejudices and to tickle their vanity that the word "Crown" has been inserted in the phrase "Transfer to the Crown." It is thus clear that "Crown" here means, not any individual sovereign or his dynasty but the political head of the constitutional government of the United Kingdom. The political relations of the Indian States, therefore, are not with the House of King George V or with his person but with him as the political head of the United Kingdom.

Another important reservation which deserves to be clearly remembered in this connection is that allegiance to the sovereign and political relations with the sovereign, do not mean one and the same thing. The learned authors of the English Empire Digest have authoritatively explained the position as follows.—"Now, seeing the King has but one person and several capacities one political capacity for the realm of England, another for the realm of Scotland, it is necessary to be considered to which capacity allegiance is due, and it was resolved that it was due to the natural person of the King (which is ever accompanied with the political capacity and the political capacity as it were appropriated to the natural capacity) and it is not due to the political capacity only, that is to his Crown or Kingdom distinct from his natural capacity." So far, therefore, as allegiance, homage, loyalty, reverence and affection are concerned, they are always due to the natural person of the King. But the question of political relations relates to His Majesty's political capacity. In this capacity the Sovereign acts through his ministers who are responsible to Parliament. In the case of the Indian States, this legal sovereignty is exercised through the Secretary of State for India, he in his turn exercising it through the Governor-General in Council. The relations of the Indian Rulers, therefore, are directly with the Government of India, indirectly with the Secretary of State and only remotely with the Crown. The present cry of direct relations with the Crown seems to be mischievously raised with a view to snap asunder the political relations of the States with the Government of India. Further it is wellknown that the King can do no wrong, which means that for every act done by or in the name of the King a minister is responsible. Similarly, whatever is done in the name of the Crown towards the Indian States must be supposed to be done by the

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Secretary of State for India acting, if necessary, with the advice of the Cabinet in England, which is entirely responsible to Parliament. When once this position is clearly understood, the distinction between a Viceroy and the Governor-General becomes obvious. As already pointed out, allegiance is due to the body or the person of His Majesty. On ceremonial or on State occasions this is shown to His Majesty's representative, the Viceroy. But as the human body of His Majesty is entirely distinct from his political body or his personal capacity from the political capacity as the head of the administration, the Viceroy as representing His Majesty on ceremonial occasions is entirely distinct from the Governor-General who is a representative of the political capacity of the Crown. The Viceroy, therefore, has nothing to do with the political relations of the Indian States. Even the term Viceroy is not recognised in the Constitution and is not used in the warrants of appointments now. This view is supported by Sir W. Hunter and Sir O'Moore Creagh.

Sir William Hunter in his Imperial Gazetteer, Indian Empire, Volume IV, has described the significance of the term Viceroy in the following words:—" This Act ( The Government of India Act of 1858 ) made no important change in the administration of India; but the Governor-General as representing the Crown became known as the Viceroy. He is appointed by Royal Warrant and usually holds office for a term of five years. The designation Viceroy, although, it is most frequently used in ordinary parlance, has no statutory authority and has never been employed by the Parliament. It originated in the well known Proclamation of 1858 which announced the assumption of the Government of India by the Crown and in so doing referred to Lord Canning, who had already been appointed Governor-General by the retiring Board of Directors, ' as our right, trusty and well-beloved cousin, Charles John Viscount Canning, as the first Viceroy and Governor-General.' None of the warrants appointing Lord Canning's successors refers to them as Viceroys; and the title which is frequently employed in warrants of precedents, in the Statutes of the Indian Orders and in Public Notifications appears to be one of ceremony which may most appropriately be used in connection with the State and social functions of the Sovereign's Representative; for the Governor-General is the sole representative of the Crown in India."General Sir O'Moore Creagh, in his " Indian Studies," has endorsed the same view. He observes: " I do not know what under English constitution a Viceroy is. The term as it refers to the Governor-General of India originated in the

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Proclamation of 1858. Its use facilitated the practice of the Governor-General acting under instructions of the Secretary of State without his Council which has been already facilitated since statutory recognition was given to the phrase 'Government of India' being used for that of 'Governor-General of India in *Council*."

The present stunt of direct political relations with His Majesty is mischievous in the extreme and devoid of any constitutional or historical foundation. The relations, therefore, of the Indian Rulers are with the authorities created by the Government of India Act of 1858.

## THE GOVERNMENT OF INDIA ACT.

In 1858 the Government of India was transferred to the Crown from the East India Company. Section (1) of the Government of India Act of 1858 reads as below :—"The Government of the territories now in the possession or under the Government of the East India Company and all powers in relation to Government vested in or exercised by the said Company in trust for His Majesty, shall cease to be vested in or exercised by the said Company and all territories in the possession or under the Government of the said Company and all rights vested in or which if this Act had not been passed might have been exercised by the said Company in relation to any territories, shall become vested in Her Majesty and be exercised in her name; and for the purposes of this Act "India" shall mean the territories vested in Her Majesty and all territories which may become vested in Her Majesty by virtue of any such rights as aforesaid." The second Section reads thus:—"India shall be governed by and in the name of Her Majesty and all rights in relation to any territories which might have been exercised by the said Company if this Act might not have been passed shall and may be exercised by and in the name of Her Majesty as rights incidental to the Government of India. And all the territorial and other revenues of or arising in India and all tributes and other payments in respect of any territories which would have been receivable by and in the name of the said Company if this Act had not been passed shall be received for and in the name of Her Majesty and shall be applied and disposed of for the purposes of the Government of India alone, subject to the provisions of this Act." These two sections clearly lay down that India includes (1) all territories in the possession or under the Government of the East India Company; The expression under the Government of the East India Company included the Native States. (2)

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that all the rights and powers of the said Company are to be exercised now by and in the name of Her Majasty, as rights incidental to the Government of India; (3) that all revenues, including tributes are to be appropriated for the purposes of the Government of India alone. The Act is not confined to British India. It is not called the Government of British India Act.

This word "India" includes both British India and Native States. The further corroboration is found in the definition of India contained in Section 124 of the amending Act 52 and 53 Vict Ch. 60,63. The expression India means "British India together with any territories of any Native Prince or Chief under the suzerainty of His Majesty exercised through the Governor-General of India or through any Governor or officer subordinate to the Governor-General of India." Similarly the expression "Government and Revenues of India" contained in section 2 subclause 2 of the present Act means "not only British India but Native States." "The expression Civil and military Government of India" in section 33 means British India and Indian India or Indian States. It is however very significant to note that the phraseology used in the previous Acts of 1773-1784-1833 and upto 1850 is almost identical. The Governor-General under all these Acts was vested with the power of superintending and controlling the Government and management of the territories vested in the East India Company and that he was to pay due obedience to the Court of Directors. In the Acts of 1858 instead of superintending and directing the Government and management the present words are 'superintendence, direction and control? Before 1858 the Governor-General was to pay due obedience to the Directors while as under the present Act he has to pay due obedience to the Secretary of State for India. Similarly in section 33 the superintendence, direction and control of the civil and military Government of India" is vested in the Governor-General of India. This clause shows that the duty of protection which the Indian rulers enjoy is entrusted to the Gevernor-General and to none else.

Sir Frederick Whyte in his monograph "India a Federation" states "that the word "India" in Section 33 means not only British India but the whole territory of the Indian States as well." Now looking to the relations of the Government of India and the Indian States in the light of the federal principle we observe that :—

"(a) The Indian States enjoy a large measure of autonomy in domestic affairs, both legislative and administrative, subject to

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the right of the Government of India to intervene, to correct actual mis-government.

( b ) The Indian States are preserved in their Treaty rights by Section 132 of the Government of India Act.

( c ) The Government of India possesses paramount powers, comparable to those of a Federal Government, over the foreign relations of the Indian States, over the succession to the States, over its armament, over the ultimate security of each State from attack and finally over the behaviour of any State which transgresses the bounds of humanity and good government within or without its own borders ! "

This authoritative pronouncement defines the powers of the Government of India over the Indian States, its duties and its obligations. We, therefore, fail to see how it can be maintained with any show of reason that the relations of the Indian States are not with the Government of India. If the Indian States have any relations with the British Government, they are only through the Government of India. They have nothing to do directly with the British Crown. The territories vested in His Majesty in India are governed, in the name of His Majesty the King Emperor of India as laid down in Section 1 of the Government of India Act. It is significant to note that the British Crown is here described as " the King Emperor " of India. The title ' Emperor ' is assumed only so far as the territories of the East India Company were concerned. The title was assumed with a view to the recognition of the transfer of the Government of India from the East India Company to the Crown. The word " Emperor " does not find place in the Royal titles applicable to the Imperial Crown, so far as the United Kingdom of England, Scotland and Northern Ireland is concerned, so far as the dominions overseas, the Irish Free State, the Crown Colonies, other protectorates of the Imperial Government and the mandated territories are concerned. The discussion at the time of the Royal Titles Bill distinctly showed that the English statesmen resented the assumption of this title with regard to their own Government. The Royal Title so far as *India* is concerned is one and the same. His Majesty is the King Emperor of India *i. e.* of Indian India and of British India. If really British India is to be viewed as equal to other self-governing dominions of the British Empire, the Royal Title ought to be changed as it has been changed at the request of the Imperial Conference recently. The claim of

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British India, so far as the Royal Title was concerned was not advocated as it was by the Dominion Premiers. It only showed the lack of constitutional instinct in the representatives of India, who attended this Conference. Whatever that may be, this country is governed in the name of the King Emperor and the rights exercised are incidental to the Government of India.' The contention of the Indian Princes, that they have no relations with the Government of India, is untenable.

In this connection it would be very instructive to compare the various statutes governing some of the dominions.

CANADA.

Section 9 of the British North American Act 1867 (30 Vict. Ch. 3) provides as follows.—The Executive Government and authority of and over Canada is hereby declared to continue and be vested in the Queen.

Section 15, the Commander-in-Chief of the land and naval militia and of all Naval and Military Forces of and in Canada is hereby declared to continue and be vested in the Queen.

AUSTRALIA.

Section 61, the Commonwealth of Australia Constitution Act 1900 (63 and 64 Vict. Ch. 2) provides—the Executive power of the Commonwealth is vested in the King and is exercisable by the Governor-General as the King's Representative and extends to the execution and maintenance of this constitution and of the laws of the Commonwealth.

Section 68 provides the Commander-in-Chief of the Naval and the Military Forces of the Commonwealth is vested in the Governor-General as the Kings Representative.

SOUTH AFRICA.

Section 8 of the South African Act 1909 (9 Ed. VII) provides:-the Executive Government of the Union is vested in the king and shall be administered by His Majesty in person or by the Governor-General as his representative.

Section 9. The Governor-General shall be appointed by the King and shall have and may exercise in the Union during the king's pleasure but subject to this Act such powers and functions of the King as His Majesty may be pleased to asign to him.

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Section 17, the Commander-in-Chief of the Naval and Military Forces within the Union is vested in the King or in the Governor-General as his representative.

## IRISH FREE STATE.

Even in the Irish Free State Constitution Article 12 runs thus :- A legislature is hereby created known as the Oireachtas. It shall consist of the King and two houses, the Chamber of Deputies called Daileireann and the Senate called Seanad Eireann. The sole and exclusive power of making laws for the peace, order, and good Government of the Irish Free State is vested in the Oireachtas.

Article 51 reads thus :—The Executive Authority of the Irish Free State ( Saorstat Eireann ) is hereby declared to be vested in King and shall be exercisable in accordance with the Law. Practice and constitutional usage governing the exercise of the Executive Authority in the case of the dominion of Canada by the representative of the Crown. There shall be a Council to aid and advise in the Government of the Irish Free State to be styled the Executive Council. The Executive Council shall be responsible to Dail Eirenn and shall consist of not more than seven nor less than five ministers appointed by the representative of the Crown on the nomination of the President of the Executive Council.

"Now it will be noticed from the quotations given above from the Dominion Statutes that according to the constitution the Crown is an integral part of the Executive Government in the dominions. In India while no doubt section 1, of the Government of India Act provides that the territories for the time being vested in His Majesty in India are governed by and in the name of His Majesty the King Emperor of India, the Crown does not find a place in section 33. The reason for this is obvious. India not being a dominion with responsible Government is governed by and in the name of His Majesty but the Executive Government in India namely the Governor-General in Council has only certain delegated functions of superintendence, direction and control subject to the superior Control of the Secretary of State who in his turn may be treated as the Agent of Parliament. As is stated in paragraph 33 of the Report on Indian Constitutional Reforms " it is open to Parliament to exercise control either by means of legislation or by requiring its approval to rules made under delegated powers of legislation or by controlling the revenues of India or by exerting its very wide powers of calling the

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responsible Minister to account for any matter of Indian Administration." Some of these things, however, Parliament does not do. The subordinate position of the Government of India is very pointedly brought out in Paragraph 34 of the report with special reference to the despatches of the Secretary of State in reply to Lord Mayo's and Lord Northbrooks' Governments in India. However annoying the speech of Lord Curzon and the incidents connected with Mr. Montagu's resignation from the Cabinet in 1922 might have been, his description of the Government of India "as a subordinate branch of the British Government six thousand miles away" was from the constitutional point of view perfectly correct. It will thus appear that although the King is an integral part of the Executive Government of the dominions King means the constitutional phrase king in Parliament. King does not mean His Majesty the King independently of his position as the head of the Parliamentary Government of the United Kingdom. The King is represented in the dominion by a Governor-General appointed by the British Cabinet the constitutional advisers of His Majesty. Dominion Governments are not in direct relations with the King in his individual capacity or independently of his position as the head of the Parliamentary Government. This analogy also strengthens the conclusion that the position of the King as described in sect. 1 of the Government of India Act of 1858 is not different from that occupied in regard to self-governing dominions and the theory of direct relations based on the wording of sect. 1 is thoroughly unwarranted.*

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* It is very significant and instructive to note that the draft constitution suggested by the Nehru Committee of the all parties conference lays down.

Section 5. The legislative power of the Commonwealth shall be vested in a Parliament which shall consist of the King, a Senate and a house of representatives herein called the Parliament.

Section 6. The Governor-General shall be appointed by the King and shall have and may exercise in the Commonwealth during the King's pleasure but subject to this constitution such powers and functions of the King as His Majesty may assign to him.

Section 22. The Executive power of the Commonwealth is vested in the King and is exercisable by the Governor-General as the King's representative acting on the advice of the executive council subject to the provisions of this act and of the laws of the Commonwealth.

The Swaraj constitution is modelled on the basis of dominion constitutions. The expression 'King' means as it does in the dominion statutes 'King in Parliament.' The inference drawn from the expression 'King' in section 1 of the Government of India Act of 1858 is therefore untenable. This expression does not support the theory of direct relations with the Crown.



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Another index that the Indian States are subordinate to the Government of India is supplied by section 20, which provides that the revenues of India ( not only of British India ) shall be received for and in the name of His Majesty and shall, subject to the provisions of this Act, be applied for the purposes of the Government of India alone. Section 20, 3 ( 1 ) includes all tributes and other payments received from the Indian States. They are included in the revenues of the Government of India. This makes the position entirely distinct and leaves no shadow of doubt, that the relations of the Indian States are with the Government of India. If they had been with the British Crown directly, then the tributes, Nazaranas, etc. ought to have been received by the British Exchequer. Moreover we find that the powers of the Central Legislature are limited as regards certain subjects. But the introduction of any measure affecting the relations of the Government with foreign Princes or States is permissible, if sanctioned by the Governor-General. Such a measure does not require the previous sanction, either of the Imperial Parliament or of the Secretary of State for India as some measures do such as those mentioned in Sect. 65 subclause 2 and 3. If the Governor-General permits, such measures can be introduced and passed by the Central Legislature. This provision strengthens the inference that the Governor-General and the Government of India have the controlling power over the Indian States. It is further to be remembered that the Political Department, which exercises control over the Indian States, is employed by the Government of India and the expenditure for the same is incurred out of the British Indian treasury and not out of the British Exchequer. The Government of India Act, therefore, makes it abundantly clear that the control of the Indian States rests with the Government of India, that the treaties are made binding on the Government of India, that the duty of maintaining peace and order is imposed on that Government, that the tributes are appropriated by the British Indian Government and that the Political Department is maintained at the cost of this Government and is controlled and is subordinate to this Government of India. Section 67 of the Act of 1858 or Section 132 of the present Act specifically lays down that all treaties made by the East India Company are binding on His Majesty. If really the treaties were concluded with the Crown as is alleged by the Indian Princes this clause was unnecessary and would never have been inserted. Treaties concluded with the Indian States prior to 1858 were with the East India Company and not with the Crown and treaties concluded with the Government of India were not with the Crown

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in its individual capacity, but were for the Crown which is a constitutional phrase meaning King in Parliament and concluded by the Governor-General under the Statutory power given to him by Sect. 33 of the Act.

The Indian States in the first period were entirely under the control of the Court of Directors. In the second period the Governor-General in Council who was subordinate to the Board of Directors and to whom h. was to pay due obedience controlled their relaion. The East India Company up to 1858 and the Government of India after 1858 exercised jurisdiction not only over British India but over Indian India. Sections 2 and 32 of the present Government of India Act make this position quite clear. Similarly tributes are made payable to the Government of India and the expenditure of the Political Department is also borne by the Government of India. The power of discussing questions relating to Indian States can be given to the Central Legislature provided the Governor General gives his sanction. The control of defence of both British India and Indian States vests in the Governor-General and with the assistance of British Indian Army, he alone has the power to keep peace and order in the Indian States. The Governor-General is also the head of the Political Department which superintends, directs and controls all affairs of the Indian States. All treaties have also been made by or in the name of the Governor-General. Recognition of succession, minority administrations, settlement of inter-states disputes and corrective measures about removing misrule–all are undertaken by the Governor-General as the head of the Political Department. That the Governor–General might or might not have consulted the Secretary of State for India or the constitutional advisers of the Crown, but that does not derogate from the position of the Government of India as the principal controlling power over the Indian States. And we find that in the case of all the States whether treaty-States or non-treaty States or even petty estates, it is the Government of India, who have taken the initiative and also the final steps in all these matters. The abdication of Nabha, whether voluntary or otherwise, the voluntary abdication of Indore, the rebuff administered to Nizam for his mal–administration, prove beyond a shadow of doubt, that the Indian States are subordinate to the Government of India who has taken the initiative and final responsibility in all these cases.

So long therefore as the Parliamentary Statute holds good, the Indian States cannot be dismembered from British India, that is to say

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they cannot be separated from and made independent of the Government of India. The claim, therefore, which the Maharaja of Bikaner is setting up for the States as politically separate and constitutionally independent units of this Indian Empire is untenable. In view of the pronouncements made at the time of the passing of the Act in Parliament and in view of the express provisions of this Constitution, the Indian States and the British India are not sister polities, each entirely different from the other. This position urged by the Maharaja of Patiala has not been supported by any historical evidence or by any treaties held sacrosant by the Indian Rulers. For these reasons we maintain that the Indian States are under the control of Parliament through the Secretary of State for India who in his turn has delegated his powers to the Government of India; that the States are in a position of subordinate union with the Government of India; that even in matters of internal administration it is the right of the Government of India with a view to ensure peace and order to interfere in the internal affairs of the Indian States, to secure good government to the people consigned to the charge of the Indian Rulers. This position is supported by Parliamentary Statute and by the political practice of the Government of India, and by the despatch of Lord Reading sent to H. E. H. the Nizam. The power of the Governor-General under section 33 to supervise and control the affairs of the Indian States is recognised by such an eminent authority as Sir Frederick Whyte in his monogram on Federation published under the authority of the Government of India. That the Governor-General is not an Agent of the Crown but that of the Executive Government of the United Kingdom. This has been admitted by such an eminent authority as Sir P. S. Sivaswamy Aiyer in his 12th lecture to the Madras University. The same authority supports the view that the relations of the States, are not with the Crown but with the Government of India. The history which we have given above of the third period knocks the bottom of the fantastic theory of direct relations.*

## THE SEQUENCE.

In view of what is stated above, if once it is assumed that the Indian States are subordinate to the Government of India, the

* The above was contributed to the *Sansthani Swuraj* in September 1927 and it is a matter of great satisfaction to find independent support to this exposition from the learned lectures of Sir P. S. Sivaswamy Aiyer delivered in November 1927 in the Madras University.

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Indian States shall have to be subordinate to that government which will succeed to the present Government of India. The object of the Reforms is not to change the character, the position, nor the power of the present Government of India in respect to other bodies or political institutions now existing. The change is going to be only in the personnel of the government and in regard to its responsibility. Instead of the Agents of Parliament carrying on this administration and responsible to Parliament the representatives of the people will carry on the government and shall have to be responsible to the people. The supremacy of Parliament would still remain. Self-governing India would be a non-sovereign subordinate legislature under the British Empire. The powers of the Government of India would remain exactly the same so far as the foreign and political department is concerned. Only the department would be manned by the black or brown bureaucracy instead of the white and would be made responsible to the legislature. The present constitution is given to the Government of India by a parliamentary Statute. The future constitution also shall have to be granted by the Parliament. Unless the Parliament declines to grant the superintendence and control of India as a whole to the future Commonwealth there is no reason to believe that there would be any departure from the practice hitherto followed. The future constitution would depend upon the Imperial Parliament. It does not depend upon the wishes of the Princes. The unwillingness of the Indian Princes to be in subordination to any Government which is composed of their own countrymen and which is responsible to the people of the Mother-land is really indicative of a perverse mentality. We are amazed to find that they are unwilling to trust their own countrymen and are inclined to depend on an alien bureaucracy to perpetuate their autocracy. The treaties and engagements do not show that the princes owe allegiance to anybody except the East India Company and their successors the present Government of India. The object of the transfer of certain States from the political charge of provincial Governments to the central Government was in pursuance of a policy of giving autonomy to the provinces in India. In all federal governments or in all governments having several units of administration foreign relations are always under the control of the central or federal Government. It is with this object in view that many of the Indian States are brought under direct control of the Foreign Department of the Government of India. The recent transfer, therefore,

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is not effected with any view of dissociating any of the Indian States from the Constitution of the Government of India. If this had been so instead of bringing them under the direct supervision of the Executive head of the Central Government they ought to have been handed over to the Secretary of State for Colonies of the British Government. But this was never intended and the object of this transfer is clearly misunderstood. The Princes desire that the present political Department which is now incorporated in the Foreign and Political Department of the Government of India should be separated with all its establishment and should become a branch of the British Diplomatic Service. This proposal is very astounding. Why should the British Exchequer bear the cost of this Department? Why should the tributes in that case go to the British Indian Exchequer? Unless, therefore, the constitution is changed and Indian India is separated and handed over to the British Government and brought directly under the control of the Secretary of State for Colonies, this change is not possible. But no reasons are adduced to show why Parliament should meddle in this manner and hand over the Indian States to the supervision of an agency, thousands of miles away and entirely unfamiliar with the manners and customs and with the past history and the traditions of the Indian States. The present machinery of the Government of India of the Political Department is more in touch with the local conditions of the States than would be the machinery of the diplomatic service. Besides the Governor General with the assistance of the Executive Councillors has ample opportunities to get enlightenment and lead in important matters affecting the Indian States. The Secretary of State for Colonies would be quite unable to command these facilities and this change would in no way be desirable even in the interest of British India and Indian States. It was rumoured sometime back that the Government of India had proposed the Indianization of the Political Service. It is believed that all the Indian Princes stoutly opposed this proposal. They perferred a British Political to an Indian Political. The Indian political officer would know their ins and outs very easily, very quickly and very intimately. Such a political they detest most. They do not therefore want Indian Political Officers. With a view to conceal all their vagaries from the Political department they would be extremely glad to have a British Political Officer entirely stranger to the local conditions and not likely to reside long in this country. Diplomatic service would not be confined only to India. These officers

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would be moving from country to country and their knowledge of local affairs would be extremely limited and this the Indian Princes consider as a great shield to protect their autocracy. The British Political Officer of the Indian Foreign Department begins his career in this country, makes up his pile and retires from this country. Some years' stay makes him familiar with the erratic conduct of the Indian Princes, their autocratic rule and the Zulum practised by them. The senior present day political officer is not such a harmless and innocent superior as the Princes desire. They therefore want the members of the diplomatic service to be associated with the States who in blissful ignorance and with the lavish hospitality bestowed on them by the Indian Princes would spend their sojourn in this country and return to England with a bright picture of the magnificient Rajas and Maharajas, being familiar only with the bright side of the shield. Such an officer would be kept in complete ignorance of the actual condition of these States and autocracy under his Supervision would flourish unchecked. The object of the Indian Princes in making this suggestion is too thin to be undetected and deserves severe condemnation.

## A DELUSION.

The Princes seem to be obscessed with a peculiar misapprehension about the position of the Crown in this controversy. They think from their own experience that Crown means a monarch like themselves enjoying unlimited powers of legislation, taxation and administration and the fountain-head of every authority. And their misconception of the powers and authority of the English Crown generated by their own intuitive and crude notions is to be found at the back of the preposterous suggestion of direct relation with the Crown. It would be superfluous to state that the British Crown at present does not enjoy any of those attributes which even a petty Indian Ruler possesses in his own state. The arbitrary and despotic powers of the King of England have been taken away by Parliment, though every act of state is done in the name of the Crown, the real Executive Goverment of Englnd is the Cabinet. The servants of the State though responsible to Parliament, are still called servants of the Crown. The expressions His Majety's Exchequer, His Majesty's Mint, His Majesty's High Court of Judicature, His Majesty's Mail-all these expressions do not mean that the several institutions are under the personal control of His Majesty or that His Majesty can

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issue any orders relating to the same. Every order in the name of the king is to be countersigned by a minister responsible to the people. The minister cannot take shelter behind the seal of His Majesty. It is for this very reason that the maxim " the king can do no wrong " is the cardinal principle of the British constitution. If the Indian Princes are labouring under the impression that by being under the direct control of the Crown they would be in a happier position and would enjoy their autocratic powers without any hindrance they are thoroughly mistaken. So far as the Government of the Birtish Empire is concerned the authority of Parliament is supreme and the king is merely a figurehead. The king enjoys certain prerogatives, but their exercise by the king is useful and in no way detrimental to the interest of the people. The prerogatives are the relics no doubt of the arbitrary, despotic powers enjoyed by the king before Parliamentary Government was firmly established and responsible government became an accomplished fact. The prerogatives of the Crown have become and are becoming the privileges of the people. In the self-governing dominions, the king seldom exercises the prerogative of veto and acts strictly as a constitutional ruler. In Crown Colonies, protectorates, mandated territories even when His majesty has prerogative of legislation in the form of Letters Patent under the great seal, orders of the king in Coucil, or Charters of Justice, in essence they all come to the same thing. They represent the formal expression of the will of the Sovereign expressed with the approval of his Privy Council, the action being taken on the advice of the responsible Minister of the Crown. In every government under the British Empire, whether that in the United Kingdom or whether that existing in the self-governing dominions overseas or existing in Crown Colonies and Protectorates and mandated territories or protected states like British North Borneo, Sarawak or Federated Malay States or in the semi-autonomous units like Malta and Southern Rhodesia, the Government, though carried in the name of the king, is always carried on with the assistance and concurrence of the constitutional advisers of the Crown. The Crown does not act independently and arbitrarily as does every one of the 700 luminaries of the Indian states. The Crown cannot act in defiance of the wishes of its consitutional advisers. What then is the advantage of desiring to be under the direct control of the Crown ? Do the Indian Princes believe that the constitutional advisers of the Crown would support autocracy at any time ? If they think so they are deceiving themselves. We, therefore, entirely fail to grasp the visdom of direct relations

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with the Crown. The Crown never acts on its individual responsibility. These relations cannot ensure autocracy. The Indian Princes cannot escape from the control of the constitutional advisers of the Crown. These constitutional advisers are invariably the trusted representatives of the people and are wedded to the principles of democracy and would be inveterate enemies of despotism, of autocracy and of irresponsible powers. The transfer, therefore, from the supervision of a democratic Government of India to the direct supervision of the Crown would be a change from Schila to Charibides and may perhaps accelerate the total annihilation of autocracy from the Indian States by reason of close personal and intimate contact. This demand appears to us to be thoroughly suicidal and would completely stultify the autocratic Indian Rulers.

## THE MOTIVE.

It may perhaps be asked as to the motive of suggesting such a preposterous theory. It is, however, obvious from the speeches and writings of the supporters of autocracy. The control over the Indian Princes is exercised by the foreign and Political Department of the Government of India. At present this Portfolio is in charge of the Viceroy. When dominion status is attained this Department is sure to be entrusted to some member of the future cabinet of the Swaraj Government. Under dominion status the Cabinet will be responsible to the people and the Minister in charge of the Foreign and Political Department shall also be responsible to the representatives of the people. He will be hectored on the floor of the House about serious grievances, about misrule and high-handed acts of Zulum in the Indian States. He shall be required to give explanations about all such incidents occurring in the Indian States. This by its very nature will affect the Political Department and the Political Officers will be called upon to give satisfactory account of all the happenings in the Indian States. This naturally will react on the Indian Princes who will often be censured, rebuked and even seriously warned. Political Department or the member in charge of the same cannot continue irresponsible under the responsible form of Government; and it is this indirect result which the Princes are gravely afraid of. They, therefore, do not want that the Political Department should in any way form part of the future Common-wealth. They have therefore invented this theory of direct relations; they suggest that whatever may be the development of the future Swaraj Government, Political Department should be removed from the control of the future



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common-wealth Government or in other words of the future responsible Government. They want to be saved from the danger of rigid control of the future common-wealth Government. They desire that this Department should be removed from the Swarajya Government and should be kept under the control of a new dignatory called the Viceroy and thus should be under the supervision of an irresponsible authority. Another object of seeking separation from the future Government is that the Princes think that their dignity, their izat and their honour would suffer dimunition by being controlled and supervised by Indian Political Officers. They would very willingly and cherfully submit to alien white politicals and would not feel mortified by any subjection to their authority. But they apprehend that their high position would be compromised and their dignity lowered by the supervision of Indian politicals. They can avoid these Indian Politicals if they can get rid of the future Swaraj; and this they believe can be successfully achieved by setting up this theory of direct relations with the Crown. They say that the Government of India of the present day is the Agent of the Crown. As they affirm that their relations are directly with the Crown they think that they can appeal to the Crown as a recompense for their loyalty not to delegate the functions of the principal to this undesirable Agent namely the future Swaraj Government and to retain them under the direct supervision of the principal through Agents who are alien in character. The Princes, however, in urging this claim altogether ignore the fact that it is the Parliament which has given the constitution to India, the Crown alone has no power whatsoever and that Parliament means in the mouth of a lawyer though the word has often a different sense in ordinary conversation the King, the House of Lords and the House of Commons. These three bodies are often described as the King in Parliament and the handy conventional phrase Crown also means and connotes these three bodies. The Indian Princes, however, are confounding the political capacity of the Crown and obsessed by the idea of loyalty to the Crown which is always due to the person of the Crown they mistake that the Crown individually is related to them. They, however, betray serious ignorance of the constitution by such a theory.

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# A Criticism.

## I

### SIR LESLIE SCOTT'S SCHEME.

The full text of the draft scheme prepared by Sir Leslie Scott, the legal adviser of the Indian Princes, and placed before the meeting of the Indian Princes held recently in Bombay, has been now published (See app. A). Before entering into a detailed examination of the various proposals contained in this scheme it is necessary to make certain general observations about the whole tenor and spirit of this scheme.

Sir Leslie Scott does not seem to think that any improvement is necessary in the internal administration of the Indian States when it is desired that they should participate in common action under conditions of reciprocity in the interest of India as a whole and of the Empire. The scheme does not even recognise the existence of States' subjects numbering nearly 70 millions, whose interests require to be protected and safeguarded. When one-fourth of India is seething with discontent caused by autocratic rule side by side with British India pulsating with new life and new aspirations created by the ideal of responsible government, can Indian India cooperate with British India to promote the welfare of this country as a whole? No scheme of federation or anything akin to the same is possible when the constituent parts differ so much in the matter of political development. It is therefore extremely surprising that a politician of the position and standing of Sir Leslie Scott should have altogether ignored this important aspect when framing his scheme.

Sir Leslie Scott also seems to be under the impression that Indian States are in a position of perfect equality with the Government of India. This impression is neither supported by history nor warranted by treaties. Indian States are as a matter of fact in subordinate union with the Government of India. According to the constitution, under section 33 of the Government of India Act, the superintendence, direction and control of the whole of India, both British and Indian, vests in the Governor-General. Sir Leslie Scott wants to divest the Governor-General of these powers and to vest them in a Viceroy, who under the present constitution has no legal recognition. It is therefore necessary to consider what justification there is for divesting the Governor-General, the present head of the

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Government of India of these powers and to elevate the Princes from the position of subordinate union to that of perfect equality. They have not shown the slightest inclination to follow the example of His Majesty's Government in placing their subjects on the road to responsible government and there is no gesture on their part of making their administrations conform to the standards of good government. If we hear something nowadays about the fixing of a civil list for them and the establishment of an independent judiciary, it is due solely to the exigencies of the situation. And be it noted that even these elementary reforms do not go beyond the stage of mere talk. To us it seems only fair that until the Indian States become thoroughly self-governing no claim for equality deserves to be considered. It need not be pointed out that the demand of the Indian Princes to be left unfettered in their relations with their subjects goes completely against the whole spirit of the Montagu reforms and as such must be rejected. While Sir Leslie Scott wants to put certain limitations upon the constitutional responsibility of the Governor-General for the welfare of the Indian States' subjects there is absolutely no provision in the whole of his scheme fixing any responsibility upon the Indian Rulers for the well-being of their subjects. Sir Leslie Scott's scheme contemplates the transfer of the Political Department from the Government of India to the proposed Indian States Council, which will mean the perpetuation of dyarchy in this country with the result that while one-fourth of India would be under the domination of a Viceroy controlling Indian States with the advice of an Indian States Council and through the machinery of the Political Department, in an irresponsible manner; the remaining three-fourths would be under the control of a constitutional Governor-General carrying on the administration with the assistance of Ministers responsible to the people. In spite of the Princes' professions of sympathy with the political aspirations of the people of British India, there is no doubt in our mind that they are at heart opposed to them.

It has been already pointed out that the Viceroy has no statutory existence. The treaties with the Indian Princes have been concluded by the Governor-Geneaal through the Foreign and Political Department of the Government of India. As Sir William Hunter and Sir O'Moore Creigh have stated, the Viceroy is really intended more for ceremonial than for political purposes. This scheme is ominously silent on the point whether the Viceroy and the Governor-General are to be two persons or only one. But the bifurcation of their powers and the possibility of conflict between these two distinct positions argue the creation of two separate offices. Though

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dyarchy in the provinces is condemned, it is apparently being found handy in the consideration of the problem of Indian States. To be brief, the scheme appears to be impracticable and unworkable. In matters of common interests like administration of justice, reciprocity, extradition, internal peace and order, conflict would arise between the two parts which would ultimately lead to a civil war. The Government of British India carried on by Ministers responsible to the people will have to fight every inch of their ground against autocrats and bureaucrats combined together and entirely irresponsible and the door to all these dissensions is to be opened in the name of reforms!

It is also not clear why it is intended to divest some of the powers of the Governor-General which are vested in him under the existing constitution. As things stand, the civil and military government of this country is vested in the Governor-General, who is also responsible for maintaining peace in the land. The Indian army, moreover, which protects the Indian princes from internal commotion or foreign invasion, is maintained at the cost of the tax-payer in British India. We are not able to discover what provision for the protection of Indian States is made by Sir Leslie Scott in his scheme. But if the idea is that the Indian army should continue to perform that very useful function, is it not only fair that the Governor-General as the head of British India should have some responsibility for the good government of Indian States? Does Sir Leslie Scott suggest that this responsibility should be shifted to the Viceroy? Is the control over the Indian army to be shared between the Governor-General and the Viceroy? If so, this would clearly mean that the control of the entire army will never be handed over to the future government of India, even after dominion status is acquired; that is to say, so long as the Indian States are in existence, Pandit Motilal Nehru described graphically recently in Bombay the evil consequences of such a proposal, which will result in keeping both British and Indian India in perpetual bondage. Sir Leslie Scott may afford to neglect this aspect of the question; but the leaders in British India cannot, and ought to lose no time in exposing the dangerous implications concealed in this scheme. Sir Leslie Scott has also ignored the British Indian people. He seems to imagine that British India would never develop politically, and has accordingly framed his scheme. But British India is constantly progressing and Imperial and Provincial popular Councils have been established with definite powers of legislation and taxation, and the day may not be far off when India will be self-governing. Sir Leslie Scott's scheme has

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not been framed in the light of such possible developments. How impracticable the proposed Union Council would be will be shown later. Suffice it to say for the present that the scheme practically confers full autonomy on the Indian States even in matters of common concern and places them in a position of decided superiority over British India.

VICEROY IN THE INDIAN STATES' COUNCIL.

SIR LESLIE SCOTT proposes the creation of a new office, to be designated as the Viceroy in the Indian States' Council. The designation proposed appears to be very clumsy. The Viceroy in Council would, in our opinion, have been much better. We hope Sir Leslie Scott is conscious of the fact that the Viceroy as such being statutorily unrecognised, the proposed creation of the new office would require an amendment of section 33 of the Government of India Act so as to divest the Governor-General of his powers of superintendence, direction and control over the civil and military government of Indian India and to vest the same in the new functionary. It is clear that unless a separate army for the protection of Indian States is to be raised, the Viceroy cannot be made answerable for the safety of Indian India. This means that there would be two armies—one responsible to the Governor-General as at present and the other to the Viceroy in the Indian States' Council, which can by no means be regarded as an ideal arrangement. It would certainly lead to friction and we should thank our stars if it does not ultimately lead even to civil war. In the language of the Simla correspondent of the *London Times*, the proposed arrangement cannot but be regarded as impracticable.

But assuming for the sake of argument that the scheme is workable, the status of the proposed office of Viceroy will be distinctly inferior to that of the Governor-General-in-Council, who, under the present constitution, has some extraordinary powers, e. g. the enforcement or suspension of any measure, which in his opinion may be needed in the interests of India see section 41. Similarly, under section 43 (2) of the Government of India Act, the Governor-General, when away from his executive council, can act as though he were acting in consultation with it. He is also empowered to declare wars to commence hostilities and to make any treaty he likes, subject to the obligation of communicating the same to the Secretary of State. Under Sir Leslie Scott's scheme the Viceroy will not apparently be granted such extraordinary powers. At the same time it is difficult to see how he can be held responsible for good government in Indian India if he is not to enjoy these emergency

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powers. Sir Leslie Scott ought also not to forget the central fact that the Viceroy and the Governor-General combined is the representative of the Crown; and as such must be the repository of supreme power, which requisite his scheme fails to satisfy. It seems to us that the *Manchester Guardian* has shown a correct appreciation of the scheme when it said:—

> "This scheme is both mischievous and fantastic. It would be ruinous to set out to establish two permanently separate dissimilar and yet co-equal political systems in India. There must be one paramount power in India. The policy of the States should be directed to become themselves a part of that power instead of vainly endeavouring to erect a barrier between themselves and it."

The composition of the proposed Viceroy's Council is equally unfair and unjust. It is to consist of three representatives of States who may either be the princes themselves or their ministers, so that the seventy millions of Indian States subjects do not come into Sir Leslie Scott's picture at all. The object of the scheme as defined in section 2 is, among other things, to advance the cause of good and beneficent government in Indian States. We do not know how this can be done when there are no opportunities provided in it for subjects of the States to ventilate their grievances or to voice their demands. Thus the very people for whose benefit the Council is ostensibly being brought into existence will be shut out from it. Though there is no element of responsibility introduced in the present Government of India, the three Indian members are supposed to be representing Indian unofficial opinion on any given question. Even if Sir Leslie Scott's scheme had provided for the nomination of States subjects to this Council, unofficial Indian opinion in the States would have had some chance of making itself heard. But that is ruled out under the scheme as drawn up, with the resulit that it can represent none but the princes.

And after all are the princes so sure that they will be able to have things their own way in this Council in which the four European members will always be in the majority? We have also been unable to appreciate the reasons underlying the provision of a seat on the Council for the Political Secretary who, even as things stand at present, has been nothing more than a secretary? Equally amazing is the inclusion of two Englishmen with no previous connection with India, which can hardly be regarded as a qualification. For these blank minds are open to such influences as may have a chance of leaving their impress upon them and it is almost certain that the rulers with their lavish hospitality and plentiful resources

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will not be slow to avail themselves of that chance. The result in almost every case will be that these blank minds from England will come to see eye to eye more with the princes than with their subjects. Thus though the constitution of the proposed Council confers the advantage of majority of the non-Indian element, in practice, however, the two fresh minds from England in league with the princes will be in a dominating position in the Council, making the position of the Viceroy and the Political Secretary extremely awkward. In the case of the Governor-General's Executive Council, three members are required to be, under Section 36 (3) of the Government of India Act, men in the service of the Crown, who cannot be expected to flout the authority of the Governor-General. The independent English members on the Council would, however, be under no similar obligation. Thus we see nothing but mischief in Sir Leslie Scott's proposal to bring out fresh men from England; and it is amazing that the idea should emanate of all people from the princes, who have in season and out of season sung the praises of the Viceroy for his impartiality in his dealings towards them, but who on the first opportunity do not hesitate, by pursuing this idea, to cast a sort of reflection on his fair mindedness. This is a fact which should be noted by all concerned.

Then we should like to ask Sir Leslie Scott whether, when he talks of the princes, he refers to them all without any distinction or whether distinction is to be made between the rulers of big States like Hyderabad, Mysore and Baroda and those of small principalities. His scheme is silent on the point and suffers to that extent from vagueness and indefiniteness.

The whole basis of the scheme appears to be wrong. It seems to have as its basis the notion that Indian States are independent and autonomous units, owing allegiance to no higher power. Nothing can be further from the truth. We need hardly repeat here that they are in subordinate union with the Government of India. No scheme which fails to take note of this fundamental fact, as Sir Leslie Scotts' scheme doubtless does, can be regarded with satisfaction by anybody but the Indian princes.

## Functions of the Viceroy in the Indian States' Council.

The functions assigned to the Indian States' Council are as fantastic as its composition. Sir Leslie claims that his scheme represents a natural development of the Princes' original idea of an advisory Council. We do not know that any Indian Prince had ever

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put forward such a preposterous scheme. A proposal was made suggesting that some Princes should form something like the Standing Committee of the Chamber of Princes to advise the Viceroy on important questions pertaining to the States. But never was there any idea that a body like the one suggested by Sir Leslie Scott with a permanent European majority should keep the Indian Princes in subjection. Another suggestion from the point of view of the people of the Indian States was made to the effect that the Viceroy should constitute an advisory Council, consisting of the representatives of the Princes, and the people of the Indian States. But Sir Leslie Scott's proposal resembles neither of these and the claim he makes for his proposal is groundless. By no stretch of imagination can this Council be called advisory, for it is going to be a body of white bureaucrats holding in subjection the black or brown autocrats of the Indian States in defiance of the growing democracy in British India.

The first function assigned to this Council as described in clause 5 A, is to safeguard the interests of the States and generally to transact business which arises concerning the States subject to the internal autonomy of the States. We fail to see how interests of the States are to be safeguarded without militating against the autonomy of the States. In the first place, the States are not autonomous, some of them not possessing full control even over internal administration and to talk as if they were autonomous is to indulge in misrepresentation. As in the case of jurisdiction over States' territory occupied by Railway lines, in the matter of excise administration, in restoring peace and good government in any State grossly misgoverned, in case of disputed succession, the obligations of the Paramount Power cannot really be satisfactorily discharged without a sacrifice of the so-called autonomy of the States.

The scheme is intended to protect the rights,—political and economic—of the States, to facilitate their efforts to develop their resources, and to advance the cause of good and beneficent government. While the scheme defines the Princes' rights, it makes no attempt to define their responsibilities and obligations. It is studiously silent about empowering the Viceroy in Council to take the initiative for the introduction and development of good and benevolent government in the States. If a State or its Ruler takes the initiative, the scheme contemplates the giving of facilities to him. But if it is indifferent, or if a ruler deliberately ignores his own obligations towards his subjects there ought to be some power of interven-

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tion vested in the Viceroy in Council with a view to securing peace and good government to the people: there is no provision in the scheme for this kind of intervention, which may even be looked upon as *ultra vires* by some legal luminaries and by the Union Supreme Court contemplated by Sir Leslie Scott.

The second function of this Council is to represent the States on the Union Council in matters of common concern to the States and British India. For a Council composed of a majority of non-Indians to represent the States, which in many cases will mean their Indian subjects, is, to put it very mildly, extremely ludicrous and presumptuous as well. Nor can the Princes represent their subjects in such matters of common concern as customs, railways, salt, excise, etc, for their interests conflict with those of the subjects. The Princes are clamouring for a share in the receipts from these sources mainly with a view to swelling their revenue, most of which, as everybody knows, is spent upon pleasure-seeking and luxuries The subjects on the other hand maintain that no contribution should be allowed to the Indian Rulers in the name of their States unless they give substantial and real guarantees that the relief given would be appropriated for the well-being of the people. In such a matter none but the subjects can say whether the relief is adequate or whether it is or will be used in their interest. It is thus clear that the Council is totally unfit to represent the States on the Union Council. No doubt under the scheme the Viceroy is to take an oath to protect the interests of the States together with the constitutional rights, powers and dignities of the Princes and Chiefs. We can understand the interests of the States, powers of the Princes and their so-called dignity, but not their constitutional rights, which are nowhere defined. If Sir Leslie Scott had taken care to define them with precision he would have rendered a great service to the cause which he is called upon to advocate. By binding the Viceroy by oath to care for the interests of the Princes rather than those of their subjects the utility of the States' Council, so far as matters of common concern are involved, is seriously open to question. For under the scheme it seems to be contemplated that the Standing Committee and the Viceroy in Council are to work together to settle general principles of policy which would be accepted by the Indian States' Council as a guide to the wishes of the States in matters of common concern. So far therefore as general principles of policy are concerned; the authority of the Standing Committee of the Chamber of Princes is co-equal with that of the Indian States' Council. Not content with this, Sir Leslie Scott further makes the

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Chamber of Princes a superior body by making its ratification of every matter not covered by general principles of policy indispensable before the authority of the Council becomes effective. The *Manchester Guardian* has not indulged in extravaga ce of language when it characterised the scheme as "fantastic and mischievous."

A safeguard is provided in the scheme by which it will be open to any State to back out of any arrangement arrived at by the Indian States' Council or the Union Council. This is giving concession with vengeance. If the Indian States want any relief in matters of common concern they must be prepared to stand by any arrangement arrived at by any organisation in which they are adequately represented. States which undertake to form a federation have to submit to a policy of give and take in adjusting their relations with British India for mutual benefit. It is this very defect which has rendered the Chamber of Princes moribund. The constitution of the Chamber does not make it obligatory for each and every State otherwise qualified, to join the Chamber. The decisions of the Chamber are not binding on all its member States, which are at liberty to represent their views to Government. Thus the Chamber is not really representative even of princely India. The same, in our view would be the fate of any senatorial institution intended to safeguard the interests of all parties in matters of common concern. They must either be in the Union or outside it. They cannot eat the cake and also have it. The proposed concession is thoroughly ill-advised and impracticable. By far the most dangerous power given to individual States is the one empowering them to obtain a ruling from the Union Supreme Court that any particular exercise of power by the Indian States' Council, by the Union Council or by the representative of the Paramount Power is unconstitutional and therefore invalid. The relevant clause is so worded that it does not make an exception about anything connected with the disciplinary jurisdiction vested in the representatives of the Paramount Power. The State has moreover not been defined, and the clause as it stands can be applied to every one of the 700 States, and even to the owner of a few acres of land, and a few hundred rupees of income. It is astounding to find that certification by the Viceroy's Council is not made obligatory before any individual State can approach the Union Supreme Court for such a declaration as the one already referred to. This provision in Sir Leslie Scott's scheme would open out an extensive field for lawyers as the Union Supreme Court would in all proba-



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ility be flooded with innumerable cases requiring the services of eminent legal advisers.

The third function of this Council is to advise the Viceroy as to his intervention in the event of gross misgovernment or flagrant injustice in any State. The safeguards provided and the procedure laid down are so cumbrous as to stultify the Viceroy. The scheme expressly states that the constitutional responsibility for intervention will rest upon the Viceroy personally and exclusively. This is a departure from present conditions under which the Governor-General-in-Council is responsible for such a step. Before, however, the Viceroy can interfere on this ground, three conditions must be satisfied. Firstly, he must consult and seek the advice of the Indian States' Council; secondly, the facts of the case must be ascertained by a process of investigation to which the Prince, against whom action is to be taken, is to be a party entitled to know and meet all the evidence against him, with the normal presumption of innocence in his favour. The scheme does not say whether this investigation is to be by a Commission such as is contemplated in paragraph 309 of the Montford Report which provides Commission to be appointed by the Viceroy to advise himself and which is to consist of five members ordinarily including a High Court Judge and two ruling Princes. Who the other two members are to be is not specified in the Report. The names of the Commissioners are to be communicated in advance to the defendant Prince, and the proceedings are to be made public if he so desires. Sir Leslie Scott's scheme is, in our opinion, positively cumbrous and impracticable. If the facts are to be ascertained, the authority before whom this evidence is to be recorded must possess powers of appreciating evidence and coming to certain conclusions about facts. This scheme does not say to whom this power is to be entrusted in this investigation. It is equally silent on the point as to whether the findings of fact in such an inquiry are to be binding upon the Viceroy's Council. The third condition is about giving a hearing to the accused Prince before the Viceroy's Council tenders its advice to the Viceroy. If the Prince has a right to represent his case at the first stage of the inquiry, we fail to understand the propriety of this additional opportunity provided for him. Similarly it is not clear whether this opportunity is by way of an appeal or cross objection against the findings of facts arrived at in the first inquiry. If the Viceroy is to be a party to this hearing, is he not to be guided by the will of the majority? Can he set at naught the majority opinion of his Council and indepedently decide whether to interfere or not after these two stages have been gone

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through? If the Viceroy cannot go against the majority of his Council, how can he be personally and exclusively responsible for the exercise of this prerogative? The scheme does not make the Council responsible for intervention in the case of gross misrule or flagrant injustice in any State. This is simply shirking responsibility; of what use is this Council if it cannot courageously take up this responsibility? Lord Reading has clearly laid down that a Commission has the power to give findings on facts and offer independent advice. To accept or not to accept the advice given by the Commission rests entirely with the Government of India and with His Majesty's Government. In the well known trial of Malharrao Gaikwar the Commissioners were hopelessly divided with the result that His Majesty's Government could not accept the findings either of the European or of the Indian element and they followed a course quite independent of the findings of this Commission. The Government of India considered the report of the Commission and arrived at conclusions of their own which were embodied in a resolution. These were telegraphed to His Majesty's Government who sanctioned them. The biographer of Sir Richard Meade has made some pertinent remarks which deserve to be quoted:—

> "We say this so-called trial (of Malharrao Gaikwar) because it was not a judicial proceeding but an inquiry made for the purpose of informing the mind of His Excellency the Viceroy in Council representing the paramount power in India in respect to alleged misconduct by a feudatory. The Commissioners were to give no verdict, simply to report their opinions for the consideration of higher authority. The inquiry, though political, was conducted on judicial principles."

These observations generally hold good even at the present time and for this reason the Commission of inquiry provided in the Montford Report is decidedly superi or in status. Sir Leslie Scott seems to forget that it is the responsibility of the Paramount Power to protect a Prince on his gadi and to secure the continuance of the same, in exchange for which the Paramount Power reserves to itself the right of intervention in case of gross misrule and flagrant abuse of power for the welfare of the subjects. Sir Leslie Scott's scheme neither approves of the Montford suggestion nor offers a better substitute. On the contrary it is feared that it would embarrass the Viceroy on whom alone is to rest the constitutional responsibility to secure good administration to the subjects of a State. As the Viceroy's Council is to be composed of three Princes, it is a foregone conclusion that they would generally support the aggrieved Prince. The experience of the Gaikwar trial strengthens this inference. It

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is also said that Lord Reading found it extremely difficult to secure capable Princes willing to sit on a Commission of this character during his time. The shining lights of the Chamber of Princes behaved in a cowardly manner in the case of the abdications of Indore and Nabha. They had neither the courage to support the Government nor to espouse the cause of the Princes in trouble. They occupied the position of indifferent onlookers when as a matter of fact it was necessary for them to take the initiative in this matter their rights and honour being at stake. It will be thus seen that this third function assigned to this Council cannot at all be adequately discharged by the same.

The question of maladministration and flagrant abuse of power by a prince is one connected with the well-being of the subjects who in any such inquiry ought to be allowed adequate representation. Unless therefore they are included in such a Commission, as was done in the case of the Gaikwar trial, the ends of justice would hardly be satisfied. From this point of view Sir Leslie Scott's scheme is sadly defective.

The fourth function of this Council is to direct and control the Political Department. The safeguard provides that a limitation shall be imposed by a Royal Proclamation upon intervention in the affairs of the States and Princes are to be authorised to bring every violation of this limit to the notice of the Indian States' Council or the Union Supreme Court for redress. It further provides that a new manual of instructions to Political Officers should be framed and this manual is not to authorise interference with the domestic concerns of the States. The existing records of the Political Department are to be transferred to the Indian States' Council. In a word it means that the Political Department is to be separated from the Government of India and handed over to the Viceroy in Council. It also means the establishment of a permanent diarchy with the Government of India divested of their control over the army and the Political Department. The scheme practically amounts to the creation of so many independent units each autonomous in its domestic affairs and all under the nominal control of the Viceroy in Council but really as so many thorns in the sides of India's future Swaraj Government. This would make self-government in British India a sham and a delusion. The foreign bureaucracy through the Political Department will hold this country in perpetual bondage and the subjects of Indian States would be reduced to slavery under the sway of their autocratic masters in whose internal affairs even the Politi-

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cal Department is not to interfere and even the Indian States' Council cannot interfere unless it is prepared to defend its action before the Union Supreme Court! This scheme makes one thing quite clear. It discloses in an unequivocal manner the antagonism of the Indian Princes to future swaraj and permanently ensures the irresponsible position of the alien bureaucracy. Sir Leslie Scott's scheme fails to say who is to pay for the maintenance of the Political Department or even the Viceroy in Council.

And, lastly, what about the interests of the subjects of the India States? Their grievance is that the Political Department is neither responsive nor responsible to them. They had been fondly hoping that when responsible government would be established in British India, this Department would be amenable to the criticism of the people and the member in charge would be made responsible to the legislature. Sir Leslie Scott's scheme on the other hand would make neither the Viceroy in Council nor the Political Department responsible to the people. The fear that the Political Department would interfere, though as a matter of fact it does not intrfere, generally acts as a wholesome check on the Indian rulers and deters them from misrule. Sir Lesile Scott's proposed manual declaring any interference in the States' internal administration by Political Officers as taboo would remove this restraining influence and will worsen the position of the subjects. In the words of the *Manchester Guardian*, we have to remind the Indian Princes and their paid champions like Sir Leslie Scott that the rulers of the States cannot expect any privileges unless they furnish clear proofs that their subjects have substantial constitutional guarantees against arbitrary power exercised either secretly or openly by them.

The fifth function of the Indian States' Council is the consideration of references from the Chamber of Princes or from any individual State. It is to be noted that this does not mean that the Council can consider any references from the subjects of any State. Its sixth function consists in taking the initiative in sending any matter for advice and consideration by the Chamber of Princes. The explanation added to section 5-F only limits this power to matters personal to the Rulers such as ceremonials, dignities and privileges. It is however disappointing to find that this does not embrace in its scope the power of asking the Indian Rulers to accept the ideal of Responsible Government and to adopt all means necessary to make their rule constitutional. Everywhere in this scheme one finds references *adnauseam* to the so-called rights, dignities and

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privileges of the Indian Rulers, but nowhere does one find even the slightest allusion to their duties and obligations towards their subjects!

## THE UNION COUNCIL.

The most ludicrous, the most ill-conceived and the most dangerous part of the scheme is however the contemplated institution of the Union Council. This has reference to British India. The subjects of Indian States are not much concerned with it. The Council is to be composed of the Viceroy in the Indian States' Council and the Governor-General in Council. Thus the Union Council would be composed of fourteen individuals—the Viceroy in the Indian States' Council to consist of 7 members and the Governor-General-in-Council of an equal number. The interesting part of it is that the Viceroy is to preside over the Council and not the Governor-General, which means that the representative of Indian India is to be looked upon as superior to the representative of British India, which would be something like the tail wagging the dog. The functions of this Council are to include (a) the Crown's obligations in regard to defence and foreign affairs and (b) the promotion of the interests of India as a whole including the necessary adjustment of interests between British India and the Indian States where the interests of the two sides are not identical. To bring in the Crown in connection with defence seems to us to be most inappropriate, as the Crown has nothing to do with it. Under the constitution the power of defence vests in the Secretary of State subject to the control of Parliament. This does include the right to secure peace and order in Indian States, which really flows from this very obligation of defence. In our opinion, the Paramount Power has an inherent right to bring to book any autocratic or oppressive ruler so as to avoid any internal disturbance or commotion, which detracts from the sovereign character of the Inian rulers even in regard to their internal affairs.

Moreover defence and foreign relations have so far been the functions of the Central Government. Under Section 33 of the Government of India Act, the Governor-General alone is made responsible for this. Sir Leslie Scott's scheme subverts this position by giving the Indian States' Council equal power with the Governor-General in regard to these functions and by making the Viceroy, the representative of Indian India in this scheme, the superior authority in this matter. British Indian interests will thus be subordinated to those of Indian States for which there appears to be

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no warranty, in any treaty with the States, in their past history or in political practice. The Jamsaheb the other day expressed his indignation at the speech delivered by Pandit Motilal Nehru in Bombay and emphatically repudiated any intention on the part of rulers of Indian States to subordinate the interests of British India to those of Indian States. We should like to know from the Jamsaheb what else is the meaning of all these arrangements? How could the "safeguard" under which power is withheld for all time from the Governor-General's Council to outvote the Indian States' Council be difierently interpreted?

The scheme provides an even more drastic "safeguard" which, stultifies the very existence of the Governor-General-in-Council. It lays down that if a proposal from British India goes beyond the mandate of the Indian States' Council it cannot be enforced against any State without the specific consent of that State. Another safeguard provides that if a proposal discussed in the Union Council does not commend itself to the Indian States' Council it will not receive the consent of the Union Council. All which clearly mean that the opinion of the Indian States' Council alone is to prevail in supersession of that of the Governor-in Council. The scheme invests the Viceroy with the power of certification to declare any measure, even approved by the Union Council, as ineffectual for the safety, tranquillity and interests of Indian States. As we have already shown, the functions of the Indian States' Council relate to defence and to matters of common concern such as customs, Commercial services and monopolies of salt, opium, and exchange, in regard to which the Viceroy is given power, under this scheme, to control, indirectly of course, the interests of British India. British India will thus have to shape its policies about defence, foreign relations and matters of common concern in obedience to the behests of the Indian States' Council. We hope that such reactionary and undemocratic proposals will receive strong condemnation at the hands of the leaders of political thought in British India.

### UNION SUPREME COURT.

The third proposal is about the creation of the Uuion Supreme Court. It is equally impracticable and preposterous. Its personnel is to consist of two Judges appointed for life on high salaries and to be selected from the best men in Great Britain. We fail to see why this restriction has been placed in the selection of these Judges. Indian Judges have sat on the Privy Council and have done credit to that Body. They have adorned the bench in India to the satisfac-

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tion of all concerned. Why they are debarred from sitting on this Union Court no explanation is offered about the same. It only shows the distrust which Sir Leslie Scott entertains about Indians. We do not know whether his clients share this view. The functions of this court are to consist generally of providing an impartial tribunal to which constitutional and other justiciable matters in dispute can be referred, subject to appeal to the Privy Council. The Court has to deal with disputes between the Indian States Council or a State or States on the one hand and the Paramount Power on the other. If as a matter of fact there is to lie an appeal to the Privy Council, what necessity there is of creating this Union Court. Cannot these functions be adequately discharged by the Judicial Committee of the Privy Council ? What necessity there is of this intermediary body entailing huge outlay. One of the functions which has been assigned to this Union Court is to decide whether any statute of British India affecting a State or any Legislative Act of a State, affecting British India is *ultra vires* and therefore of no effect in regard to such State or British India as the case may be. This function means that this supreme court can declare any statute passed by the British Indian Legislature not only *ultra vires* in regard to Indian States but in regard to British India also. This in other words means that the Union Supreme Court is to over-ride British Indian Legislature. Can this position be ever accepted by any Government of British India whether that of the present or of the future. We are not enlightened by the learned counsel as to who is to bear the cost of this Union Supreme Court. Since this scheme declares that this Supreme Court will not be a British Indian Court but a Court created by the Paramount Power and the Princes jointly. Are these two bodies to share this expenditure equally ? This also ignores the fact that if the Government of India is raised to the status of a self-governing dominion there will be the necessity of creating a Supreme Court for this Indian dominion as is the case with regard to other self-governing commonwealths under the Empire. If this Supreme Court is established is this Union Court to be superior to this Court or is it to exercise concurrent jurisdiction ? In any view of the matter the whole thing would become anomalous. Sir Leslie Scott has been deliberately ignoring the subordinate position of the Indian States. His idea of the present Union Court is like that of the International Arbitration Court at Haige. Are the Indian Princes to be raised to the position of equality with the Paramount Power and are they to be treated as enjoying international status? Unless this is so it is meaningless to describe it as a Court created by the Paramount Power and the Princes jointly. The Privy Council is the

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Court of the Paramount Power and is regarded as the highest Court by all the self-Governing Units of this Empire, by the dominions and dependencies alike to settle their disputes. Another fantastic feature of this institution is apparent from safeguards which are provided. One such affirms that where the issue before the Union Supreme Court is in the judgment of the Court a matter of constitutional right no plea of act of state will be admissible. This safe-guard is very amazing. The plea of act of state is available to the sovereign power as one of its peculiar prerogatives. This is admitted and recognised in so many cases by their Lordships of the Privy Council. If Sir Leslie thinks of raising the status of Indian States from the position of subordinate Union and independent vassals to that of perfect equality with the Paramount Power and thus enable them to enjoy international status through the devise of this Union Court, he would be sadly disappointed as such a claim would not stand a moment's scrutiny. The second safe-guard is that the Union Supreme Court will have no jurisdiction over the person of a Ruling Prince. We ask him why this safe-guard is necessary. If an Indian Prince commits any crime in British India or plans a conspiracy in his own State in consequence of which any offence is committed beyond his jurisdiction why should not this Union Supreme Court take cognizance of such an offence against the guilty ruler. By some people it may perhaps be contended that such a Ruler is not amenable to the jurisdiction of Municipal Courts of British India. This point is very debatable. Whatever its ultimate solution may be why should this Union Supreme Court be not vested with the power of trying a Prince for his crimes and misdemeanours. If atleast this function had been given to this Supreme Court it would have received some favourable consideration at the hands of some people. Sir Leslie seems to be anxious to set up unfounded claims for the Princes and to deprive the British Indian people and the Government of India of their vested and undoubted rights. But he seems to be extremely solicitous to make the Indian Rulers quite immune from any legal restrictions. This institution of Union Supreme Court therefore, claims to assume powers which are opposed to the fundamental relations between the Paramount Power and the Indian States and which are opposed to the accepted principles of Jurisprudence. On the other hand the suggestion contained in the Montague Report at Para 308 about Commissions of Inquiry into disputes which may arise between two or more States or between a State and local government or the Government of India in an independent and impartial manner is thoroughly practicle, less



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expensive, and decidedly better and perfectly in consonance with the defacto relations between the Paramount Power and the Indian States. Compared with this suggestion the scheme of Union Supreme Court is thoroughly preposterous.

## CHAMBER OF PRINCES.

The fourth proposal is about enhancing the power and influence of the present Chamber of Princes. In making his suggestion Sir Leslie seems to be oblivious to the existing defects of this institution which has made it moribund. Sir Leslie does not suggest any remedy to make this institution really representative of the Princely order. He does not point out any way to induce the important states to become the members of this August Body by making suitable provision for recognising their respective importance, magnitude and extent. He does not suggest that this body should have the power to elect its own President just like the other bodies of the Central Legislature. He does not advise the publication of the Proceedings of this Chamber with a view to inspire greater confidence and respect for this body in persons who are vitally interested in the same. The suggestions of Sir Leslie about enhancing the power and influence of this body are simply trivial and do not touch the vital points. He only has outlined an elaborate and expensive secretariat for this institution without materially adding to its strength or to its utiliy or to its resentative character.

## CONCLUSION.

In brief the scheme is impracticable, unacceptable for the following reasons :—

1. It ignores the constitutional developments in British India.

2. It does not recognise the existence of the subjects of Indian States and their political rights.

3. It does not take note of the fact that the Indian States are in subordinate union with the Suzerain Power as exercised by the Government of India.

4. It does not recognise the authority of the Suzerain Power to secure the welfare of the subjects of Indian States which exists independently of treaties.

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5, It creates a dignatory called the Viceroy exercising authority independently of the Governor-General with his status constitutionally recognised.

6. It sets up a permanent diarchy in this country, Indian India being governed by the Viceroy acting under instructions from the Crown and controlling Indian States with the assistance of a Council and exercising authority through the Political Department separated from the Government of India; British India being governed by a Governor-General responsible to Parliament carrying on the administration with the assistance of Ministers of the future Commonwealth and responsibe to the Indian people.

7. It creates an Indian State Council with permanent majority of European Members.

8. It raises the status of the Political Secretary to that of a member of the Council.

9. The Indian State Council is made subordinate to the Chamber of Princes since its ratification is necessary before the authority of the Indian States Council becomes effective. The Standing Committee of the Chamber of Princes is raised to the position of equality with this Council.

10. The authority of the Indian States Council is subjected to the declaration of the Union Supreme Court that any of its ruling or any exercise of its power is unconstitutional and invalid.

11. The Indian States Council is to direct and control the Political Department which is to be taken out of the control of the present Government of India.

12. The present records of the Political Department are to be transferred to the Indian States Council though they belong to the Governor-General in Council and though they relate to policies affecting British India.

13. Each individual State has the right to stand out of the arrangement proposed by the Indian States Council. It has also the right to seek any modification of the general arrangement settled by the Indian State Council which may be applicable to it.

14. Each State has the right to approach the Union Court to get a declaration that the exercise of powers by the Indian States Council is unconstitutional.

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15. The Viceroy alone is to remain responsible for intervention in the affairs of any State for gross misgovernment of flagrant injustice in any State; but he is compelled to consult the Indian States Council, which shirks to take the responsibility for remedial measures while as the Governor-General in Council is responsible for the same now.

16. The Governor General in Council is to sit in joint session with the Indian States Council for the consideration and action of the Crown's obligations in regard to defence and foreign affairs. Till now the defence and foreign affairs are the sole concerns of the Government of India. Hereafter this responsibility is to be shared with the Indian States Council.

17. The Governor-General in Council has no power to outvote the Indian States Council.

18. No proposal from British India can be enforced against any State without the State's specific consent.

19. Any proposal of the Government of India relating to matters of common concern if it does not commend itself to the Indian States Council is not to be of a binding character.

20. The Viceroy and not the Governor-General is vested with the power of certification that any proposal of the Union Council if unacceptable to the Indian States Council will not be sanctioned. Which means even the majority opinion of these two institutions is to be set aside not by the Governor-General but by the Viceroy. The Viceroy is to preside over the Union Council and not the Governor-General.

21. The Union Supreme Court is invested with the powers of declaring ' any act of State ' as *ultra vires.*

22. The person of a Ruling Prince is above any law.

The scheme in fact aims to restrict the constitutional sovereign rights of the future democracy in the country in the following ways :—

1. The Swaraj Government will have nothing to do with the Political Department which means in other words its connection with the Indian States is to be forever severed.

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2. The control over defence is to be shared with the Indian States Council and the Viceroy since as a matter of fact under the constitution the Governor General alone is responsible for the Military Government of India including Indian India and British India.

3. The British Indian army is maintained at the expense of the British Indian tax payers while as the management and control are to be shared with the Indian State Council.

4. Policies and actions about matters of joint concerns are to be subordinated forever to the wishes of the Indian States Council.

5. The Government of India even when pursuing policy as an act of State will be exposed to constant litigation.

6. The Governor General in Council is to submit to the jurisdiction of a Court not created by the Suzerain power but to a court created by the rulers and the Paramount Power jointly.

7. The British Indian Commonwealth-will every day come in conflict with the Governm ent of the Viceroy and the Indian States' Council.

So far as the subjects of Indian states are concerned (1) They are not given any voice in the scheme even in matters of common concerns which seriously prejudice them. (2) The Governor-General of the present constitution discharging his suzerain duty of protecting Indian States' subjects from oppression is to be divested of this power and this power is under the scheme transferred to a viceroy alone who would be impervious to public criticism and agitation and whose constitutional responsibility is circumscribed by the serious limitations of consulting the Indian States' Council. They will make it almost impossible for the Viceroy to discharge his constitutional responsibility in this respect. The subjects, therefore, of Indian States would be entirely deprived of any chance of being saved from the maladministration in an Indian State even though it may be long, gross and continuous. The subjects cannot appeal either to the Chamber of Princes or to the Standing Committee or to the Indian States Council or to the Viceroy or to the Union Supreme Court when they are goaded to desparation under misrule. (3) At present the Governor-General can interfere whenever there is internal disorder in any state on the ground that as he is responsible to keep peace and order in Indian India; he can interfere and put a stop to maladministration and thus relieve the

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people from oppression. Since, however, the Indian States' Council consisting of members of the Princely Order and European bureaucrats are given a voice under this scheme in the matter of the Crown's obligations in regard to defence this remedy also would not be available in the future and an Indian Ruler carrying on misrule can easily avail himself of protection through the medium of this Indian States' Council. The scheme, therefore, if adopted by the British Government will reduce the Indian States' subjects to slavery, will make the autocratic Rulers thoroughly independant, will deprive the Swaraj Government of substantial powers and will subordinate the British Indian people in important matters to the dominaton of Indian Rulers. This is the far reaching and dangerous consequence of this scheme.*

## II

### SIR LESLIE SCOTT'S LATEST.

In his letter (see appendix C) published in the July number of the *Law Quarterly Review*, Sir Leslie Scott has laid down certain broad principles which he believes can be admitted on all hands but which we think cannot really find general acceptance. Sir Leslie thinks that there is no legal decision to serve as precedent in determining the relations of Indian States to the Crown; and maintains that resort must be had to first principles of Law. He thinks that this subject is a virgin field for the lawyer; whether it is really so or not, it is no doubt a virgin field for Sir Leslie Scott. Constitutional writers like Mr. Tupper and Sir William Lee-Warner have dealt with this subject at considerable length. After the publication of the works of these authors there was a discussion at the East India Association in England on this very question viz. the Sovereign Princes of India and their relations to the Empire, which was started by Sir Roper Lethbridge. The Rt. Hon. the Earl of Cranbrook, formerly Secretary of State for India, was in the chair and the whole question has since then been dealt with from every conceivable standpoint. It is no doubt true that the Indian States are divested of one important element of sovereignty viz. the power of defence; and enjoy only powers of legislation, taxation, and partially of administration in their States. Though the Indian Princes or their subjects are not subject to the laws passed by the British Indian Legislature, or to the taxation imposed by the Indian Legislature they both owe allegiance to the crown. The Government of India is responsible for the welfare

* The above was published in *Servant of India*, on 31 May, 7-14, June, 5-19 July 1928.

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of, the subjects of Indian States ; and in the discharge of its constitutional responsibility for the civil and military government of India, adopts remedial measures to correct misrule. Sir Leslie Scott seems forgetful of this important duty of the Government of India. Thus the relations of the Government of India exercising delegated powers under the constitution towards the Indian States, though incapable of precise definition, are well understood. They are no international as some princes are fond of saying ; they are akin to those subsisting between a Suzerain power and its dependent vassals.

Sir Leslie's broad propositions seem to be unwarranted and can be characterised, in the words of Pandit Motilal Nehru, as based on wrong history and bad law. The first proposition enunciated by him is that the fundamental tie between the Indian States and the Paramount Power is one of consent. This shows gross ignorance of Indian history. The tie is not based on consent but on acquiescence on the part of Indian Rulers by reason of their helpless position and is imposed upon them by the Paramount Power owing to its undoubted strength and superior diplomacy.

The right Honourable Lord Hobhouse has described the tie in the following words :

" The plain fact is that our position as Paramount Power was gained by superior force i. e. by wars—wars waged through many years and with great varity of circumstances. The independance of Native States varies from almost complete sovereignty in internal affairs ( all are debarred from foreign relations) down to jurisdiction of a very petty kind. Some of their powers were secured by formal treaty, and some rested on usage ; while sometimes, of course, questions arose which were not covered by either treaty or usage. But lying at the bottom of all things was their origin—Viz. conquest ; and the sanction and limitation of all was military force,—very rarely coming to actual blows, but taking the political shape of " Acts of States." In fact, it was very seldom that anything was needed but steady and quiet pressure on the Indian Ruler by the Resident Agent. ( Asiatic quarterly review Vol. X 1895 P. 331 ).

Sir Leslie observes that the British Nation is irrevocably committed by the pronouncements of Kings and Viceroys to the scrupulous observance of all its contractual undertakings to the Indian States. In the first place, these are not contractual, but

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diplomatic, undertakings. And in the second place, the treaties were never concluded by any King of England in his individual capacity and the Viceroy is a term not recognised by the statute! Even prior to the Act of 1858 all treaties were concluded by the Governor-General under the direction of the Board of Directors and the Board of Control. Since 1858 though the Government is carried on in the name of the Crown and on its behalf, it is, as described by Viscount Palmerston, Government carried on by the constitutional advisers of the Crown who are responsible to Parliament and to the people of Great Britain.

The second proposition enunciated by Sir Leslie Scott is that these contracts (a term which he perversely applies to these treaties and engagements) are between sovereigns, the Princes and the Crown, not the Company or the Government of India. This is a proposition to which no student of Indian history can subscribe. Treaties and Engagements have, we repeat once again, been made by the Company and the Government of India and we would challenge Sir Leslie Scott to cite historical evidence in support of his proposition.

His third proposition is that the relationship between the States and the Paramount Power is wholly legal—a nexus of mutual rights and obligations. The relationship is diplomatic and has all the incidents which are inseparable from the relations subsisting between a high contracting party and a weak dependent principality.

His fourth proposition is that the contracts between the Princes and the Crown are personal, that is incapable of being performed by any one else. This proposition is simply astounding. The undertakings with the Indian Princes have always been performed not by the Crown but by its Agents appointed by the Crown's constitutional advisers. The Princes on their part also are dealing with the Agents of Parliament except only in the expression of their feelings of loyalty which in theory is due to the person of the Crown and not to it in its political capacity. From this false premise Sir Leslie draws a conclusion which is fraught with utmost danger to the attainment of Indian Swaraj. He states:

"The Princes in making them (contracts) gave their confidence to the British Crown and Nation and the Crown cannot assign the contracts to any third party. The British Government as Paramount Power has undertaken the defence of all the States;

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and therefore to remain in India with whatever military and naval forces may be requisite to enable it to discharge that obligation. It cannot hand over those forces to any other Government—to a foreign power such as France or Japan, to a Dominion Government such as Canada or Australia nor even to British India."

This confirms the worst fears of British Indian politicians who have always suspected the object of the agitation of the Indian Princes inspired by the bureaucracy to be to deprive the Swaraj Government of the future of any control over the Indian Army. Sir Leslie Scott now appears in his true colour and there can be hereafter no mistaking his meaning. Under the constitution granted by the Act of 1858, the control over the Indian army vests in the Government of India. This can be exercised even by the future Government of India, no matter if its complexion is black or even if it is composed of the agents of the people instead of the agents of Parliament. The Government will all the same be in the name of the Crown as at present.

In this letter, Sir Leslie Scott puts forth the new fangled theory of direct relations with the Crown. He observes :

"How far the Crown can delegate to the Government of British India as its agent, the discharge of its treaty obligations to the States is also a matter for consideration. The Crown can normally choose his agents; but an Agent cannot act where his interests may conflict with his duty. In all matters of common concern with the States—customs, railways, posts, the salt monopoly, etc. there is always the possibility that the interests of British India may not be identical with the interests of a particular State. The Crown's duty is or may be to safeguard the interests of the State, particularly in the case of minority administrations. Should the interests of the agent be given the chance of conflicting with the duty of the principal?"

The whole argument is entirely fallacious and thoroughly mischievous. It reveals in all its nakedness, another phase of the theory of direct relations with the Crown and its dangerous consequences. This theory of direct relations is untenable. ( See Direct relations with the crown-theory exposed ). The Secretary of State and the Governor-General in Council are the agents, not of the Crown but of Parliament. It is these very agents that have during the last seventy-five years managed these relations. The injustice

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done to the States by these agents of Parliament, who are only technically called agents of the Crown is due to the lack of proper supervision of Parliament over them. The Government of India was and still is responsible to the British Parliament which exercised vigilance only when British interests were affected. The responsible Government of the future would ordinarily not act prejudicially to the interests of the Princes and their people, for after all blood is thicker than water and British Indians would never fail in their duty towards their brethren, the Indian Princes and their people, owing allegiance to the same motherland.

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This was published in the *Servant of India* on 2 August 1928. It is a matter of great satisfaction that these views are supported by the Neheru Committee report published on 15 August 1928 (vide App. D.)

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# Fears, Prejudices and Professions of The Indian Princes.

## I

### FEARS.

When the Williams-Huksar Mission left for England, it was given out that they were proceeding to consult eminent lawyers in England upon the position of the Indian Princes in the body politic of India. Such a mission is never termed a " deputation " in the sense that the word is understood. Many suitors, disappointed litigants, hopeful appellants and applicants always approach distinguished counsels in England for their advice, for retaining them in their cases when they would come before proper tribunals. We were, therefore, in a great fix to know, why this mission was called a 'deputation' as if, they were sent to represent the views of any organised body of people, either before the authorities or before persons who occupied influential positions in the great parties in England. Congress deputations have been sent to enlighten British public opinion or to place their grievances before the authorities in England, in the past and publicity is always given to the work which such deputations are called upon to do. But quite the reverse of it seems to have been the method of these two luminaries, who went to England to defend the cause of discredited autocracy. Dr. Rushbrook Williams is the paid agent of an Indian Ruler and so has now assumed the role of an apostle of autocracy. Mr. Huksar is an old servant of the Gwalior State with a mentality of an amazing character. He had the audacity to run down even such a venerable institution as the Congress with a view to ingratiate himself into the good graces of reactionary and retired pro-consuls and pensioners like Lord Sydenham and Sir Michael O'Dwyer and men of their ilk. Mr. Huksar has a fling at the Congress in these words.

" For example, at the moment the Scotch Banker, the English Boxwalla or the European or American Missionary fumble about the sundried Bureaucrat, just as often as the delegates of the Indian

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National Congress did in those happy days, when that body was conscientiously preaching an already effete doctrinaire of liberalism as the panacea for all the political and economic woes of India." We put it to this old servant of the Gwalior Darbar, if this very liberalism has not fructified in the Declaration of 1917 and in the instalment of reforms, which has been granted by His Majesty's Government and which has awakened a feeling of consternation in the minds of his masters, about the future democracy in India?

## A SUBTERRANEAN MOVEMENT.

One thing is quite clear-that Mr. Huksar, with such predilections about the Congress and the political activities of the British Indian people, was the fittest person to do the left-hand work of creating antagonism to the reforms, in the minds of the British, public. The genesis of this mission is now made clear and its dangerous character, becomes known unwittingly from the letters of the Simla correspondent of the *London Times*. We learn that the Princes have organised themselves to carry on a movement for the protection of their so-called rights and for guaranteeing their status under the new constitution. Out of 110 Princes, who are qualified to be members of the Chamber of Princes, 90 have joined this movement. This movement is said to have been financed by H. E. Highness the Nizam of Hyderabad. Some time before the departure of these two emissaries, as very appropriately described by our contemporary the *Week* of Calcutta, the astute and business-like Jamsaheb had visited Hyderabad. We then scented something ominous and we now find the purpose of this visit. H. E. Highness is a disappointed Prince who has been labouring under the fallacy that he is a faithful ally of the British Government, meaning thereby that he is independent in status, and co-equal with that of the British Government, inspite of the fact that over a century and half since A. D. 1800. Hyderabad has been virtually a British occupation, and its internal administration is openly and directly controlled by the British Resident. H. E. Highness was disillusioned by Lord Reading and he was rudely shaken in his dreams of independence. He has since been smarting under this rebuff and the shrewd Indian Princes have found in him a suitable victim to fleece him to carry on a most improper anti-national movement.

The nature of the mission was misrepresented, in the pompous interview, which Dr. Williams gave to the *Indian Daily Mail* representative on his arrival in Bombay. He said, " Our first task was to make the British public realize that there was no antagonism

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between the States and British India; that Indian States and British India were two distinct entities; that the Princes did not bear ill-will to the British Indian aspirations and that they wanted the adjustment of their interests on strictly constitutional lines." These emissaries have not thought fit to mention at what places they enlightened the British public or to publish the speeches they delivered on such occasions. English newspapers do not contain any reports of these public addresses, which these two agents delivered. Their work was underground and seems to have consisted in waiting upon the authorities at White-hall and in seeing British reactionary Imperialists, like Lord Sydenham and Sir Michael O'Dwyer.

But fortunately for the British India people, the Simla correspondent of the London *Times* has given out the object of this movement and an outline of the demands, which the Princes are discussing behind the scenes. He observes that "The Princes are becoming increasingly suspicious of the eventual intentions of the politicians in British India; that most of them are now engaged in exhaustive exploration of their legal position, in the belief that if they can strengthen their position in relation to the British Indian Government of today, they will be more secure against the encroachment on the part of the presumably less British and more Indian Government of tomorrow; that there is a great danger to apprehend from the doctrinaire radicalism of Indian politicians: that between the Princes and the British Indian politicians there is no love lost; that they want to escape the contagion of the British Indian semi-democratic policy; that they think that they can discern a steady encroachment, voluntary or involuntary upon rights and privileges which are in theory fully secured; that the Princes would come face to face with the radicalism of the British Indian politicians and that democracy would be arrayed against the conservation of the Princes." This has been impressed upon the correspondent of the *Times*, by one who could speak authoritatively from the Princes' standpoint. If, therefore, we are to believe this correspondent, is there any honesty in the professions of the Indian Princes. as voiced by Dr. Rushbrook Williams that there is no antagonism between the States and British India and that the Princes bear no ill-will to the British Indian aspirations? No one on behalf of the princes has repudiated what the Simala Correspondent has communicated to the *London Times*. In the light of what the Simla correspondent has described as the genuine feeling of the Indian Princes, what Dr. Williams gave out to the interviewers appears to be sheer camouflage. The Indian Princes are mortally afraid of the future Commonwealth

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of India. They think they would not be allowed to play their game of autocracy. The *Week* has very graphically described the present rule of the Indian Princes in the following words. "The Prince's regime is a regime of unfettered caprice and in notoriously many cases it has been the caprice of vicious perverts,of avaricious misers,of profligate spendthrifts, of halfwitted fools. There are as many as 700 autocrats in India and if amongst them there are men and women of unblemished life and high ideals, the fact remains that a system of uuchecked caprice is indefensible in itself." This is the fear weighing upon the minds of the Indian Princes, specially of those who are wielding power in a most despotic manner in their own States and unfortunately they are the persons, who boss at present the great show of the Chamber of Princes and who are the principal movers of this dangerous agitation which strikes at the root of democracy, which is going to be established in British India. They have no confidence in British Indian leaders. They are inclined to trust the alien bureaucracy rather than the future ministers of the Commonwealth. The apprehensions of the Indian Princes, as described in the *London Times*, unequivocally lead to the conclusion that the Indian Princes regard the British Indian politicians, aspiring for responsible Government in British India, as their great enemies. They fear that these democrats would not allow their autocratic rule to continue unchecked. They further trust that the present Politicals and the bureaucracy, would support them and strenghten them in their indefensible position and that they believe that the future Commonwelth would make inroads upon their rights and privileges. They regard the bureaucracy as their saviours. They want, therefore, to take shelter behind the bureaucratic Government of to day for their protection and salvation.

We are simply pained to see that the Indian Princes should distrust their own countrymen and should entertain fears from their advancement. If this is not *ill-will* to British Indian aspirations, by what name can this feeling be described? Is it not ingratitude on the part of the Indian Princes? The British Indian subjects show feelings of respect and veneration for the Indian Princes, whenever they come and mix amongst them. They have a soft corner for these Indian Princes, as the remnants of the glorious past. They have stood by the Indian Princes in their hour of need, when their rights were encroached upon, when their privileges were curtailed and when their States were in danger of being absorbed in British India. The agitation to support H. H. Mulhar Rao Gaikwar at the time of his

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trial and tribulation and the sympathy naturally evoked whenever any Prince was under cloud, notwithstanding that he was not deserving of any sympathy individually, but because he was a representative of a bygone order as in the cases of Indore, Nabha, Aundh, Bharatpur and even in the case of His Exalted Highness the Nizam of Hyderabad, unmistakably demonstrate the affection which British Indian leaders bear towards the Indian Princes. This feeling of suspicion of the Indian Princes is nothing but an affront to the British Indian subjects. It shows a complete antagonism between the States and British India. The Indian Princes, therefore, have set on foot an agitation, which depends upon the good-will of the Bureaucracy. They have naturally to lend their support to the Bureaucracy which would wish the Indian States to prove a counter blast to the future Commonwealth of India. It is, therefore, high time for the British India statesmen not to ignore this agitation any longer. It cannot be overlooked in contempt. The aim of the popular agitation, in British India, is to divest the Bureaucracy of its power. The future Government, as Mr. Montague once expressed is to be transferred from these agents of Parliament to the agents of the people. On the other hand the Indian Princes, for all time to come, want to depend upon the politicals or on the Bureaucracy or on the diplomatic service of the Crown. They, therefore, are endeavouring to strengthen the position of the Bureaucracy. Will these two standpoints ever be reconciled ? They are antagonitic to each other. It is therefore, necessary for British India statesmen to knock down the bottom of this agitation by exposing its fallacies, its unfounded doctrines and the diabolical and interested nature of this movement, which would make the existence of any self-government in British India impossible. The Indian Princes are working underground and in secrecy. They have access to responsible people of all parties. With unlimited resources at their disposal, they can influence men in power in favour of their propaganda and thus marshal all forces against the reforms in British India. If really the movement gathers strength would it not be a great impediment in the path of the future progress ? We, therefore, appeal to the British India statesmen to apprehend the danger from this quarter, from which it was least expected and try to counteract it before it throttles the nascent movement for Self-Government. The Indian Princes are setting up a claim for a rival Government in India, which would prove a thorn in the sides of the future Commonwealth and which would make responsible Government in the future, difficult of realisation.

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## A RIVAL GOVERNMENT.

The unpatriotic character of the agitation carried on by the Indian Princes, becomes apparent from the scheme of a Rival Government, which they want to set up in India, in opposition to the future Commonwealth of British India. The Indian Princes have put forward their claims on two grounds, one financial and the other political. The financial claim is not at all new but has been considered in the Montford Report and a suggestion has been made for safe-guarding the interests of the Indian States, in matters of common concern. The political claim is very dangerous and is fraught with serious mischief to the growth of democratic Government in British India. We, therefore, first want to examine this political claim and we would try to show, how it is politically detrimental to the realization of the ideal of responsible Government in India and how it is historically untrue and unfounded. The Princes maintain ( 1 ) that their relations are with His Majesty and not with the Government of India. ( 2 ) They do not wish to be in sub-ordination to any Government, which is responsible to a legislature, drawn from a British Indian electorate. ( 3 ) They consider that the recent transfer from the Provincial Governments to the Government of India, the charge of Political relations with certain of the States, was a preliminary achievement in agreement with their claims stated above. ( 4 ) They advocate that their access to His Majesty's Government and to His Majesty, should be through a Viceroy divested "*ad hoc*" of his functions as Governor-General in Council; ( 5 ) and that the present Political Department which is now incorporated in the Foreign and Political Depts, of the Government of India, should be separated with all its establishment and should become a branch of the British diplomatic service. ( 6 ) They further assert that the machine, comprised of the British Government, the Secretary of State for India, and the Government of India, which has come in the place of the East India Company, has usurped the rights of the Crown. They question whether the Crown had given its authority to this machine, meaning thereby, the constitution framed by the Government of India Act. This 6th demand goes to the very root of the Constitution, which is undergoing evolution from 1858 when the Government of India Act was enacted and the Crown assumed direct responsibility for the Government of this country.

These six points are pressed because the Princes are afraid of the security of their autocratic power under the future Government

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of India. " The mutual obligations of Suzerain power and Ruling Princes caused discomfort to neither side, so long, as the Sovereign acted through the *old styled Government of India.*" They know or guess that the Viceroy must in some questions, immediately affecting them, act through the Government of India. That Government already contains members drawn from the British Indian Political arena and is admittedly far more under the influence of the legislature, than some of those who framed the new constitution foresaw. And between the Princes and the British Indian politicians no love is lost. The Princes want to escape the contagion of British Indian semi-democratic politics. The Princes discern " a steady encroachment upon their rights and privileges. " This attitude of the Indian Princes has been very correctly discribed by the Simla correspondent of the *London Times* in a trenchant remark made to the following effect. " The anxiety which all these efforts reveal, seems to indicate not only the desire of the Ruling Princes to uphold their own positions as autocratic Rulers but their disapproval of political reform, on the lines so far followed in British India. "

It would be necessary, however, to bear in mind the present position of the Indian Rulers and their States, under the existing Government of India, with a view to clearly appreciate the importance and the far reaching effects, of an organisation, which, the Indian Princes desire, should be set up, in opposition to the present or the future Government of British India. The Indian Princes are not at all directly connected with His Majesty or with His Majesty's Government in Great Britain. They are under the control of the present Government of India; that this control is exercised through the Foreign and Political Department of this Government of India; that the political side of this Department, exercises the immediate supervision and control over the Indian States; that the Viceroy has got nothing to do with the Indian States; that the position of the Viceroy as such, is not at all recognised in the Indian constitution; that the Governor-General as the head of the Executive Council or the Central Legislature has the charge of this port-folio of the Foreign and Political Department; that every question involving any dispute, any controversy or any matter of importance such as succession, adoption, mal-administration, deposition or voluntary abdication and the continuance of the Ruler and his family, is decided by the Government of India; that the transfer of certain States from the political supervision of Provincial Governments to the Central Government is due to the fact,

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of the eventual development of a federal system of Government in this country. Under all federal constitutions Foreign and Political relations, are the sole concern of the Central Government and not of the various units, forming part of a Federal Government. The Political Department, so far had delegated its functions to certain Provincial Governments, which contain the Indian States within the geographical limits of these Provinces. But now, as each Province or at least the major Provinces, would be entitled to provincial autonomy, political relations with the Indian States, cannot legitimately form part of the functions of the autonomous government, that may be established in future, in each of these Provinces ; that the Crown as such, has no position now left under the British constitution. The Crown represents the emblem of sovereignty enjoyed by the people and exercised through the Parliament. The House of Commons, the House of Lords and the House of His Majesty the King, these three together represent the glory and the power of the sovereignty of this British Empire. His Majesty, like an Indian Prince, divested from his position, as the head of the British constitution, does not exercise any authority over the Indian States or their Rulers. That the person of His Majesty is held sacred and respected is due to the sentiment of loyalty ingrained in the nature of Indians, whether a commoner or a Ruler of any State. The East India Company had its affairs controlled by Parliament, ever since its territorial acquisitions became of any importance. The very first Act viz. that passed in 1767, clearly lays down that the authority of Parliament, shall control and guide the destinies of the East India Company and that the Company exercised political powers ever since that time in trust for the Parliament. That all subsequent changes in the powers of the East India Company and the assumption of the Government by the Crown in 1858 and all the subsequent constitutional changes, have been effected by the authority of Parliament. The attempt to draw a red herring between the person of His Majesty and the sovereign parliament of Great Britain is palpably ridiculous and is steeped in deep ignorance. We shall, therefore, have to deal with all these objections seriatum.

## JUSTIFICATION FOR THESE DEMANDS.

Before, however, we examine the preposterous claims, so audaciously set up, by the Indian Princes, we want to know what they have done to deserve these privileges and prerogatives in opposition to British Indian aspirations. If, immediately after the termination of the war, they had asked for these rights, as a just reward for the

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valuable services rendered by them, they would have been treated with that supreme contempt, which they justly deserved. But they now want that their claims should form part of the scheme of reforms which is promised to India and which is about to be gradually expanded. The demand of the Indian Princes, briefly summarised, come to one thing, namely unrestricted and unabated exercise of arbitrary power. It is the natural outcome of a mind inherently debased by the corroding influence of despotic rule. The Princes want that this power should be unlimited and should be perpetuated, without any restrictions whatever, so long as the sun and moon shine. They want, therefore, that the British Indian constitution, should be divested of every power, which can exercise any control however meagre it may be, over the Indian States. They further want that the British constitution should not exercise any control over their destinies, throught its institutions. They have, therefore, brought forward this astounding plea, namely, the machinery-by which they mean the constitution either of Great Britain or of British India has usurped the powers of the Crown. No apologist of Royalty has advanced such a preposterous claim during the constitutional History of England, up-to the present moment. We doubt very much, whether even the staunchest supporter of Royal prerogative, would muster courage to advance a doctrine of usurpation, of such an impudent character. The presumption of the Princes has reached its climax in this demand, when they want to set at naught, not only the British Indian constitution but even the authority of the sovereign Parliament, which has shaped and moulded the relations of the Indian States, towards the Government of India, established by Parliamentary Statute. The Simla correspondent has rightly observed, that in setting up this argument of the machine usurping the rights of the Crown the Princes and their advisers have stumbled over the difference between autocratic and constitutional monarchy. The aims of the Princes are clearly incompatible with those of British India. The Indian Princes, want to bring about their complete dissociation from the government to be established in British India. The aims of the Princes and the aims of the British Indian People are as observed by the *Times*, mutually antagonistic. In the face of such an authoritative pronouncement, we fail to understand what bearing these demands have on the reforms in British India. Can they legitimately form the subject matter of discussion of the future Statutory Commission? Anything which is contrary to the scheme of reforms cannot be even thought of, much less seriously discussed. The Indian Princes, obsessed with the idea of unadulterated autocracy seek dissociation



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with British India or with the growth of the democratic institutions in British India.

The aim of Parliamentary interference and control in the affairs of the East India Company, from the beginning has been to safeguard the interests of the people, who came under the political control of the East India Company. The Parliamentary examination of the political administration of the East India Company, every time, when the charcter was renewed was mainly directed to secure good government to the people committed to their care. When, however, the Crown assumed the charge of the affairs of the East India Company, the Government of India Act was passed and a constitution was guaranteed to the Indian people. Vicount Palmerston, speaking to the House of Commons asking leave to introduce the Bill, for transferring from the East India Company to the Crown the Government of her Majesty's East Indian Dominions, clearly stated the object of the transfer in these words. "The principle of our political system is that, all administrative functions should be accompanied by ministerial responsibility to Parliament, responsibility to public opinion, rosponsibility to the Crown. I say then that, as far as regards the executive functions of the Indian Government at home, it is of the greatest importance to vest complete authority; where the public have a right to think, that complete responsibility should rest and that whereas in this country there can be but one Governing Body responsible to the Crown, to Parliament and to public opinion, consisting of the constitutional advisers to the Crown, for the time being; so it is in accordance with the principles and practice of our constitution, as it would be in accordance with the best interests of the nation, that India with all its vast and important interests should be placed under the direct authority of the Crown, to be governed in the name of the Crown by the responsible Ministers of the Crown sitting in Parliament and responsible to Parliament and the public for every part of their public conduct." Viscount Palmerston has given a very happy explanation of the formula of Government in the name of the Crown. He observed, "I believe that there can be no doubt so far as the impression on the minds of the people of India is concerned, that the name of the sovereign of a great Empire, like this, must be far more respected, far more calculated to produce moral and political impressions than the name of the company of merchants, however, respectable and able they may be. We have to deal in that country with Princes, some ruling independently and some in a state of modified dependence upon us, and with feudal chiefs proud of their position, cherishing tradi-

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tionary recollections of a wide Empire and of great sovereigns, to whom their ancestors owed their allegiance. How can we expect him to feel any great respect for a mere company of merchants? The respect they feel,the allegiance they yield, would be increased tenfold if one were given and the other tendered to the sovereign of a great and mighty Empire." The fallacy of the Indian Princes, based on their allegiance to the person of His Majesty, comes to be completely exposed by the observations of Viscount Palmerston given above. The government of India is carried on in the name of His Majesty for moral and political impressions. They play largely upon the imagination of the people and they are a great asset in securing the steadfast loyalty of the subject races, to the Government established over them. But it is not the Government of His Majesty in his individual capacity, as is the personal Government of an Indian Ruler, but it is a Government which is conducted by the responsible advisers of the Crown, sitting in Parliament and responsible to Parliament and the public. If the Indian Princes, therefore, want to bring about a divorce between the King and the Parliament is it compatible with the British Constitution? Is it loyal to the Sovereign Parliament? Is it defensible in view of the past traditions of constitutional history? The exhibition of inordinate loyalty, to the person of the Crown is actuated by the malevolent intention of ignoring the Parliament and the public opinion, to which the Government is responsible under the constitution of 1858? This claim, therefore, is thoroughly untenable and perfectly unconstitutional and would not bear a moment's scrutiny. It is opposed to the spirit of reforms and to the constitution, which is guaranteed to India and militates against the pronouncement of 1917.

## THE SPIRIT OF REFORMS.

When the second stage of constitutional reforms was reached in the year 1892 George Nathaniel Curzon, the then Under-Secretary of State for India, and afterwards Lord Curzon Governor-General of India, while introducing the reforms in 1892 stated as below:—

"The object of this Bill, which it is my duty to explain to the House, is to widen the bases and to expand the functions of Government in India. to give further opportunities than at present exist to the non-official and native elements in Indian society to take part in the work of Government and in this way to lend official recognition to that remarkable development both of political interest and of political capacity, which has been visible among the higher classes since the Government of India was taken over by

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the Crown in 1858." It was thus to satisfy the political aspirations of the intelligentia of the country, that the reforms foreshadowed by Lord Dufferin, were carried into effect, during Lord Lansdowne's regime. Lord Morley carried on this political advance to the third stage in 1909 and he said that he approached this question of reforms from the principles recognized in 1858 and the doctrines enunciated by Lords Lansdowne and Ripon. "We will associate the people of India with the Government, in the work of actual day to day administration." Mr. Montagu in 1919 when introducing the Government of India Bill, based on the report of the constitutional reforms, described the nature of the constitution in the following words. "Whence did we start? We started with the pronouncement of the 20th August 1917. I propose to ask, is there any-body who questions to-day the policy of the pronouncement? It is no use accepting it unless you mean it. It is no use meaning it unless you act upon it. And it is no use acting upon it unless your actions are in conformity with it. Therefore, I take it that Parliament at any rate this House, will agree that the policy of the pronouncement of 20th August must be the basis of our discussion. The progressive realisation of responsible government-progressive realization by degrees, by stages, by steps and those steps must, at the outset, be substantial." Mr. Montagu added, "that the object of the reforms was to transfer the government from the agents of Parliament to the representatives of the people of India." He emphasised that there is no other way of promoting democratic customs, than by working them, through democratic institutions. The constitution he maintained was transitional. It is a bridge between government by the agents of Parliament and government by the representatives of the peoples of India. The division of transferred and reserved subjects was only provisional and that the British trusteeship was parted with and surrendered to the representatives of the people of India, so far as transferred subjects were concerned.

These pronouncements of distinguished British statesmen, whose names have been associated with the epochs of constitutional development in India, unmistakably point out, that the sole object of the Reforms was to gradually raise this country to the enviable position of a Self-governing unit, within this Empire and to give opportunities to the people of this country to fit themselves to control their own destinies. If we briefly survey the constitutional growth of British India from 1858 to 1927, we find that

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in the fiart period *i. e.* from 1858 to 1892, the selected people were nominated by Government and were consulted in matters of legislation only. In the second period *i. e.* from 1892 to 1909 the principle of election was followed and representatives of the people were consulted in matters of Legislation and were allowed to discuss the budget and to ask interpellations. In the third period *i. e.* from 1909 to 1919, nonofficial majorities were introduced in the Provincial Councils and election was recognised in the Central Legislative Council. Budget was allowed to be voted and discussed, debates were permitted to be raised on matters of general importance and supplementary questions were allowed to be asked. In the important work of administration, Indians were associated with the Council of the Secretary of State for India, in the Executive Council of the Viceroy and in the Provincial Executive Councils. In the fourth period *i. e.* from 1919 onwards elected majorities have been established in Provincial Councils. The principle of responsibility has been recognised. Dyarchy has been introduced. Transferred Departments have been handed over to Ministers, who are responsible to the Legislature. Elected majorities have been established in both the Houses of the Central Legislature. Budget has been divided into votable and non-votable portions and the votable portion is under the control of the representatives of the people, subject to the power of certification by the Governor-General. In fact, out of the four monuments of sovereignty, so far as Legislation, taxation and administration are concerned, undoubtedly very great progress has been achieved. The progress is inadequate and insufficient, so far as the Indianization of the Civil and Military Services is concerned. But the most hostile critic of the present Government cannot deny that there has been a decided progress in the growth of representative institutions and the association of the people with the government of the country, so far as British India is concerned and the further stage in this path of progress is about to be chalked out and settled by the Statutory Commission.

## WHAT HAVE THE PRINCES DONE.

Now we put it to the Indian Princes, whether during these 70 years they have imbibed any lessons from the methods of administration adopted by the British Government. Have they shown any relaxation in their autocratic powers? Have they endeavoured to advance the interests of their subjects morally, materially and

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politically ? In how many of the Indian States local self-government really flourishes ? In how many, are there village panchayats, municipalities and district local boards controlled by the people and vigorously carrying on their work ? In how few of them, any real representative institutions, not sham and bogus namesakes have been created ? Do the people enjoy any rights in matters of legislation, taxation and administration in the Indian States ? Is the right of interpellations conceded to the people ? Is the budget laid on the Council table for discussion and passing ? Can any Prince tolerate the criticism which is levelled at the heads of administrations in the provincial and central legislatures ? Would any subject of an Indian State ever muster courage to question the ruler about the expenditure incurred by him on his Civil List and about the appropriation or rather misappropriation of public revenues, to satisfy the ever increasing and unsatiating demands of his personal wants and comforts ? Would any subject of an Indian ruler call the system of administration in his State as ' satanic ' or expose the vagaries or misdemeanours and erratic conduct of the exhalted despot, except on pain of lifelong incarceration or total ruin ? The Indian States can be differentiated from British India very briefly even on two grounds. There is no self-government in any Indian State. There is no rule of law under any Indian ruler. These axiomatic truths are universally recognised and there may be very few exceptions to these among the 700 Indian States which could be counted on one's own fingers. This is the present State of things in Indian India as compared with British India.

Why then are these claims set up by the Indian princes ? What logical sequence there is between their demands and the trend of reform movement in British India ? The subjects of British India are anxious for liberty, for self-government, for government through them and by them. And this demand is conceded though gradually. The subjects of Indian States are clamouring for liberty., are crying for good government and for progressive realization of responsible government, under the aegis of their respective rulers. The princes, on the other hand, want to give them stones when they are entreated to give them bread. Is it, therefore, rational, is it, therefore, prudent to consider the preposterous proposals made by the Princes which are entirely opposed to the spirit of reforms and subversive of the principles, upon which the British Indian constitution is based ? In the light of what we have stated above, the demand of the princes is simply astounding. The

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British India political leaders want that the Secretary of State for India should not interfere, that Parliament should not interfere and that the Bureaucracy should not come in the way of future government of India. They, however, want to submit to the control of the people, as exercised through their elected representatives. The divesting of the control of the Bureaucracy, of the Secretary of State for India and of Parliament, is conceded in principle in British India. The time and measure of the pace of advance towards this ideal of Dominion status, is to be determined by the sovereign Parliament of Great Britain. The Indian princes on the other hand say, "let us have an irresponsible government in our States; let the Government of India not interfere, the Secretary of State not interfere nor the Parliament interfere in the internal administration of the States. We want to rule as autocrats irrespective of the wishes of our subjects." This means the complete enthronement of despotism and the complete negation of good government and the certain impossibility of achieving any step on the path of self-government and still less of responsible Government. We, therefore, respectfully ask the Indian princes, what have they deserved, what have they achieved to claim these demands from the Crown to which they pretend to show unbounded loyalty. But we would be glad to know if any one of these 700 luminaries is willing to accept the pronouncement of 1917. Do not they feel it obligatory, as loyal feudatories, to follow in the footsteps of their overlord, His Majesty the King Emperor of India. Of what avail is this lip loyalty of the Indian princes, if they cannot faithfully and honestly follow the generous example of their illustrious overlord?

Although the British Government and the distinguished statesmen, who have shaped the destinies of British India have not taken any initiative to induce the princes or to bring diplomatic pressure on the Indian Princes, to introduce reforms in their States, they have expressed a desire that they would not be displeased, if the reforms now introduced in British India react upon the people living in Indian States. The illustrious authors of the Montford Report observe: "There is a stronger reason why the present stir in British India cannot be a matter of indifference to the princes. Hopes and aspirations may overleap frontier lines, like sparks across the street. There are in the Native States men of like minds to those, who have been active in spreading new ideas in India. It is not our task to prophesy but no one would be surprised if constitutional changes in Britrsh India quicken the pace in the Native

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States as well, if the advanced princes who have already set up the rudiments of representative institutions were impelled to develop them and if even the most patriarchal rulers thought it time to clothe their authority in more modern garments. Our business, however, is to observe our treaty obligations and to refrain from interference and to protect the States from it. We must leave the natural forces at work to provide the solution in due course. If change comes in the Native States it can only be by the permeation of ideas and not as a direct result of the constitutional changes in British India." This clearly indicaes that the authors of the reforms were not willing to take any initiative. *suo moto* in introducing reforms in Indian States or in accelerating their progress. It is, however, very pertinent to note that those who drafted the pronouncement of 1917 included in their ambit "*India*" meaning thereby British India and Indian India. The modification of this pronouncement in the preamble of the Government of India Act and the limitation of the reforms to British India, confirms the view that the pronouncement of 1917 is to be applied to the whole of *India*. By a statutory provision the pronouncement is made applicable to British India. It is for the Indian Princes to make the pronouncement applicable to their respective States.

We make bold to interrogate the Princes, if their demands are supported on the basis of any treaties or engagements concluded with them. We have ransacked the treaties but we own to a sense of disappointment that we have not come across with any single treaty or any engagement, which warrants any of these demands. The Indian Princes are making a fetish of their treaties. They further maintain that their treaties should in no way be tampered with. No rational government, with any honourable instincts would ever think of violating the treaties, solemnly concluded with the Indian rulers. Is it not equally imperative on the part of the Indian rulers, not to set up ludicrous claims which cannot be evolved from the terms of any existing treaties? The two emissaries deputed by the Princes to England to plead their cause have not pointed out to any treaties which justify these demands, nor has the Simla correspondent of the London *Times* enlightened us in this respect. We would rather challenge Dr. Williams to elucidate this position, now taken by the Indian Princes, by producing any terms in any of the existing treaties, which go to support the present demands, so that the public at large may judge the soundness of this position and may be convinced of the justice of the case now being made out by the Indian rulers or on their behalf by their advocates.

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## II

## PREJUDICES.

The '*Round-Table*' number of September contains an inspired article about the stand-point of Indian Princes in connection with the Reforms. Dame rumour says it is writen by Dr. Williams. The Indian Princes have really secured a great panegyrist of their rule and of their order in the writer of this article. It is, however, a matter of great pity that the writer of this article is labouring under many fallacies about the States and their rulers. The article however summarises the vanities and prejudices of the Indian rulers'. The first fallacy of the writer consists in the statement that the 72 millions of people inhabiting onethird of India are not subjects of His Majesty. This statement is not correct. The Indian State subjects owe double allegiance, one to their direct rulers and one to His Majesty the King Emperor of India, who is the Sovereign Lord of the Indian Princes.

The writer, describes the position of a ruling Prince in the following words. "He appears the unquestioned master of all around him; the embodiment of proud tradition; the living personification of Sovereignty. He has freely lavished upon him a popular devotion and reverence, which is almost without parallel in the modern world. Even where he rules badly, his people seem to ascribe their complaints to the defects of his advisers. Everything good is attributed to the Prince; anything that is unpopular, must in the view of his people be the fault of his minisiters. The Prince is the pivot upon which the whole State turns. Every office in his administration is held only by his favour. His word is law and his slightest will a command." No Indian bord would excel this writer in this fulsome adulation.

Nothing would better describe the moral degradation which autocracy has brought about in the subjects than the following remark. But "this system of personal rule, restrained only by ethical obligations and customary limit, seems for all its strangeness in Western eye to possess one conspicuous merit. Not only has it worked for a long time: it continues to work today; and that the vitality of the Indian States lies in their continued existence."

But herein lies the second fallacy of the writer. It is no doubt true, that there are internal and external limitations upon every Sovereignty. The internal limitations are, as described by constitu-



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tional writers, those of ethical and customary character. The external limitations of Sovereignty, which consist in the willing-ness of the people and the submission of the people to their ruler are controlled and dominated by the Paramount Power in India; under every other form of despotic Government the Goverment lasts only so long as the people are not driven to revolution. The moment the subjects are not willing to obey their despotic ruler they offer widespread resistence to the ruling power and bring about the downfall of a tyrant. This is the experience which history has taught. But in the case of the Indian States, the subjects cannot resort to the ultimate sanction of successful revolt and this is because the Paramount Power with all its vast resources supports an autocrat on his gadi. The continued existence of the States is, therefore, due to the protection of the Paramount Power and not due to any intrinsic merit in the system of personal rule prevailing in Indian India. If the Paramount Power keeps aloof, the oppressed subjects would square their accounts with their autocratic ruler in no time. But by a strange irony of fate the Paramount Power assumes responsibility of keeping peace and order and of preserving dynasties of these autocratic rulers on their gadis but is extremely slow to recognise its obligation of securing good government to the subjects of the Indian States. Unless misrule is gross, long and continued the Paramount Power does not consider it its duty to come to the rescue of the Indian States' subjects. But what a terrible suffering the subjects have to endure until this high standard of misrule is reached the suppressed subjects of Indian States can alone realize; Personal rule, therefore, cannot claim any share of credit for the existence of the Indian States. Devoid of the Imperial protection, hardly few States would have existed under such misrule.

The third fallacy of the writer is "that there is little oppression in the Indian States; that those who live under it seem generally contented; that there is very little unrest of any kind in the Indian States, and that there does not seem to be any marked desire on the part of State subjects to participate actively in the work of Government." This is an astounding statement. There is intense discontent in the Indian States; though it is not articulate, the despotic rulers of the Indian States have practically blocked all the doors of publicity. Fifty years before, this very remark could have been appropriately made about British India. If there had been no press, no platform, no public meetings, no facilities to ventilate grievances through organisations like the Indian National Congress, no responsible association of the people with the Government in the form of

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legislative councils and assemblies, if there had been no foriga propaganda carried out, reactionary politicians would have described British India just in the same selfcomplacent manner, in which this writer has so grotesquely mis-represented the condition in Indian States. There is no press worth the name in any of the seven hundred Indian States; there is no liberty of meetings, no freedom of discussion, no association of the people with the Government; no legitimate facilities to ventilate the grievances are afforded to the people in all the Indian States except a very few honorable exceptions. What is there then to judge about the contentment of the people? They are dumb millions, whose discontent is driven underground by the oppressive rule of despotic princes. No information is published by most of the Durbars about the moral and material condition of these people in their States. The great bosses of the Chamber of Princes are reluctant to supply even their annual reports to the outside world. The Prime Minister of Bikaner, who so zealously undertook the work of whitewashing the rule of his master, in a recent speech of his has not the courtesy even to supply a copy of the Administration Report of his State, to verify the statements, which he recently made in vindication of his newly chosen master. If this is the tale of the so-called enlightened Indian Princes, what must be the condition of things in the smaller States one can very well imagine. The writer is under great mis-apprehension when he states that people in British India are migrating to Indian States. As a matter of fact the real condition is quite the reverse of this. By reason of the limited scope for employment, qualified people from Indian States are freely migrating to British India, to improve their lot. The Indian princes have supreme contempt for their own subjects. They are enamoured of foreigners, perhaps because in their blissful ignorance, these people do not know the whims, caprices and the erratic temper of these Princes. With very few exceptions, those who go to the Indian States from British India, are either decrepit or worn-out persons or toadis and '*jo hukumwallas*' or mercinary hirelings and place hunters. Spirited, intelligent, and self-respecting people from outside do not prosper under the stagnant and corroding influence of the Indian States. There is no access to the ruler and the condition described by Dr. Williams, the new apostle of autocracy, is conspicuous by its absence in almost all the Indian States. The service is generally filled by incompetent and mediocre people at the sweet will of the ruler and the people of the State have absolutely no voice in the choice. A careful observer of an Indian State would clearly see that there is absolutely no security of person, property,

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or tenure, no freedom of conscience, and discussion; there is the rule of jabardastism, and respect for law and order is absent in almost all the Indian States barring few exceptions. There is no rule of law there; there is total absence of Government by the people, for the people and through the people; and we make bold to state that this is true about the States of almost all the shining lights of the Chamber of Princes. We put it to the 'writer' of the '*Round Table*' article to show by facts and figures how many of the members of the Chamber of Princes have ensured good government to their subjects and are honestly developing representative institutions in their States. If an investigation is made about the moral and material condition of the people in these States and about the contentment of the subjects of these States, whose rulers are members of the Chamber of Princes, it will be found that there is a dismal picture of the degraded condition of the subjects living in those States.

The conclusion of this 'writer' that the subjects of Indian States seem content to leave the task of Government to their Princes and their advisers, is thoroughly unfounded and no one living in 'Indian India' can subscribe to this preposterous proposition. It is a sheer camouflage and the wonder of it is that such travesty of facts, such special pleading should have been allowed to appear in a magazine, which aims at 'the progressive realization of responsible Government in all the units forming part of the British Common-Wealth.' When slavery was abolished it was also maintained by the slave owners and that their victims were quite contented with their lot. But when the emancipation brought about self-consciousness the slaves realised in what a detestable state they lived all these years. It is liberty alone which fits men for liberty and this is true of all nations under subjection.

The '*Round Table*' writer while describing the lines of progress in the Indian States, mentions that in many States there is a free educational system, which will carry a boy from the village school to a first grade College. This statement is wide of the mark. There are hardly few States in which secondary education has been made free; fewer still in which collegiate education is free. In some States only primary education of a most elementary character has been made free. It is, however, to be noted that the income from fees derived by the primary schools, in such States was extremely limited. Very few States have, however, incurred any extra expenditure on account of this primary education, with a

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view to make it efficient and popular. Unless primary education is made compulsory it is sure to fail to accomplish its real object. Compulsion means increase of pupils in large numbers. This in its turn involves increase in the teaching Staff. The number of teachers is to be multiplied and the teachers are necessarily required to be trained and efficient. Increase of pupils entails also increased school accommodation; this means enlargement and increase of existing school buildings and their accompaniments, namely the playgrounds. All these facilities are woefully lacking in all the smaller States, where the Rulers pretend to have made primary education free. Furthermore the question of compulsion has got to be handled with considerable tact and skill. Otherwise fines are imposed and they swell to an extent the income of the State which becomes simply scandalous. Compulsion carried not against the grain of the people, free primary education, adequate number of efficient teachers, commodious school houses and excellent play grounds are conspicuous by their absence in all the few States, wherein primary education has been made free. The education imparted in these schools is of a most inefficient character and is merely an apology of real sound education. As regards medical and sanitary services the tale is equally disappointing. At the capital of various States you find well-equipped Hospitals but if you go into the interior you find that medical relief is totally denied to the masses living in the villages where they live in a most insanitary condition. There are no roads, no removal of prickly pears, no supply of good drinking water, no conservancy arrangements and no signs of the existence of any sanitary conscience among the people. As regards judicial administration, the laws of British India are practically bodily incorporated in the legal system of almost all the States and the procedure is not simplified nor made less expensive as the writer of the '*Round Table*' article observes but is very complex and is taxing heavily the litigant population. So far as the recruitment of the Judiciary is concerned there are many States in which this Department is not manned by qualified people. The pay is extremely poor and does not at all attract even tolerable men. The tenure of service is not held during good behaviour but during pleasure of the ruler. Justice is administered there always with an oblique eye to the wishes of the ruling Prince. This is so not only in the case of the Judicial service but in the case of every service, in an Indian State. Service is not recruited by any competitive test. It has no attraction by reason of its low pay, by reason of the insecurity of tenure, and by reason of the

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absence of any system of time-scale promotion or legitimate pension. No wonder, that the service in an Indian State is generally inefficient, servile and often times corrupt and mercinary. All the forms of government and the system of Departments, the appellations and designations of officials-current in British India are now invariably adopted by every State whether small or great. We find there, High Court Judges, Secretaries, Collectors, Commissioners and Executive Councillors. But if we compare the pay and emoluments given to these Executive Councillors or to High Court Judges in an Indian State we have to hang down our heads in shame and look small in the eyes of outsiders and one often times realises what a mockery it is to dabble in such departmental system and official designations. As regards the cost of the administration it is no doubt correspondingly less than it is in British India; but the reason of it is not because the service is cheap, efficient and contented but because it is very meagrely paid and consists of most incompetent people, who enter the States' service because they cannot find better employment outside. The glowing picture of the writer in the '*Round Table*' is based upon information supplied by interested people, whose main object seems to be to make the States appear to great advantage. But to those who are living in the Indian States and who are brought up in Indian States, the picture painted by the '*Round Table*' writer seems to be thoroughly unreal and drawn with the purpose of fulsome adulation.

The '*Round Table*' writer mentions certain disabilities, under which the Indian States are at present labouring. (1) The Government of India now claims certain powers in the direction of implementing international obligation which relate to the policy pursued by the Government in such matters as Excise, Currency, the Tariff and Railway development (Post, Telegraph, Telephone. Wire-less and Broadcasting may also be included in the category). (2) The influence over the Governor-General of his Executive Council now semi-Indianised is on the increase. (3) The increasing departmentalism of the Government of India is affecting the interests of the States. The Departments of the Government of India, pertaining to Currency Railways, Customs are now guided by expert advice with a view to secure administrative efficiency and are influenced by forces of educated Indian Opinion. These grievances are undoubtedly true; but the remedy lies not in claiming despotic powers but in adjusting their own relations in consonance with the march of events in British India.

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The interests of Indian States are really prejudicially affected every day by matters of common concern. The Indian Princes have, therefore, to agitate for adequate representation of their views, when policies regarding these matters of joint interest are shaped and adopted by British Indian authorities. The Montford Report has suggested the creation of a senatorial institution, consisting of representatives of British India and Indian States. Has the Chamber of Princes, that ostentatious body, whose wirepullers are at present engineering the campaign of strengthening autocracy ever forcibly demanded and insisted on Government, the inauguration of this Institution? If they are really keen about the rights of Indian States and their subjects, why have they made only feeble efforts to press their views on the attention of Government as regards this point? The reasons of this indifference are apparent on the face. One is that the claim for contribution in the revenue derived from Customs and from the monopolies of Excise, Salt, Currency and the commercial services is based on the ground that the Indian States'–subjects contribute *pro rata* to the income derived from these heads of common interest. Equity and Justice, therefore, demand that this contribution, if allowed by the British Indian Government, must go to the amelioration of the subjects of Indian States. Are the Indian Princes prepared to earmark the revenue derived from these heads for public utility Departments, if it is allotted to the Indian States on a proportional basis? The second reason is that in such a senatorial body the representation of the subjects of the Indian States shall have to be included; because the principal complaint is that the policies in matters of joint interests touch primarily the pockets of the subjects rather than those of the rulers. The subjects of the Indian States, therefore, are entitled as a matter of right, to have their representation on such an institution. The autocratic Princes cannot claim to represent their States, unless their representation is sanctioned by the people. The Indian Princes are not willing to confer the blessings of representative government on their subjects. So long as they want to rule in an autocratic manner and so long as they do not enjoy the real confidence of their subjects, their mere presence will not carry any weight in such a body. Besides, in an institution, wherein the Princes would be required to rub shoulders with British Indian leaders of the people they would be thoroughly non-plussed by their incompetency and by their ignorance, and they would fail to secure any advantage to the Indian States in this uneven contest. It is no doubt true that these relations savour of international obliga-

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tions and every day they are crystallizing and tending to produce federal ties in this body politic. The Indian Princes have to realise this position and to organise themselves so as to be effective units of a federal government in the future. This means a heavy responsibility on the Indian Rulers, which has not dawned upon them as yet and which they are thoroughly unfit to shoulder in their present disorganised condition and ill-preparedness. The Princes shall have to adopt the form of responsible Government in their States, which is accepted as the ideal of this central Government of a Federation. The various small States will have to combine into few groups, so as to form proper component parts of a Commonwealth of India. Isolated as they are, they cannot hope to have any place in the federal organisation. They will have to form themselves into few defined groups for these international obligations. The Kathiawar States can form one group; the Southern Maratha States can form another; the Central Indian States the third; the Panjab States the fourth and so on. Big isolated States like Mysore, Hyderabad, Travancore will be eligible to be units by themselves of the future Federation. Extremely small States and thoroughly detached like Savnur, Soundur or Bagunpali or similar ones and States having no full powers of internal administration will perforce be required to be mediatised, if they cannot by any means be tacked on to any nearer group. After this grouping and after establishing responsible government in each individual State, it is perfectly possible to safeguard the interests of the States in matters of common concern.

As regards the second disability, namely the increasing influence of the Indianised Executive Council over the Governor-General the Indian Princes must reconcile themselves to this fate. It is the inevitable consequence of rising democracy and growing nationalism. If they refuse to bend before the forces of democracy, liberty and self determination, they would be wiped out of existence. Constitutional history teaches this lesson and points the same moral. The conduct of His Majesty the King Emperor and His House is a standing example as to how the British Crown has reconciled itself to the position of a constitutional monarchy and has been able to secure the contentment of the rising forces of democracy. We fail to see why the Indian Princes professing so much loyalty to the British Crown, should not emulate His Majesty in his constitutional virtues and his statesmanlike behaviour.

The third grievance about the predominance of expert advice influenced by public opinion, is equally insane. Efficiency of rule,

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necessarily requires resort to expert knowledge and the best form of Government consists in its responsibility to the people. If, therefore, the Indian Princes hope to occupy any honorable position in the federal Government of the future, they must learn to respect the chosen representatives of the people and also to bow down to the opinion of intelligent experts.

The opinion held by the Indian Princes, about the leaders of the people in British India, as described by the '*Round Table*' writer, displays supercillious arrogance towards them and inveterate contempt for them. It is really very surprising to find that the Indian Princes, so held in high esteem by British Indian leaders and so consistently honoured by them, should return such ingratitude and such hostility towards them. The objections of the Indian Princes against British Indian leaders are categorically mentioned by the '*Round Table*' writer as below:- (1) That they ( British Indian leaders ) do not possess the tradition to rule. (2) That they have no real stake in the country. ( 3 ) That they cannot command the unquestioning allegiance of fighting men. (4) That they have not the traditions of knightly honour and the pride of breeding. (5) That their authority, if unsupported by British arms, could not endure even for a second. (6) That they have no inherent claim to position or authority. Each one of these objections, is so futile that it is hardly worth a moment's scrutiny. To say that the British Indian Leaders have no tradition of rule is to betray a lamentable lack of—memory—of past history. The ancestors of the present Princes and the forefathers of the present leaders of public opinion at one time formed the Indian States maintained them and carried on their administrations. But for the assistance of the councillors and their advisers, who invariably belonged to the middle classes, and who formed the then intelligentsia of the country, the so called illustrious ancestors of these princes would hardly have been able to hold their own against the warring elements, of the hoary past. The then Princes and their then colleagues, who were of the States were the real makers of those States during that period. If the Princes, therefore, can claim credit for the tradition to rule, by reason of their connection with their ancestors, what prevents the Indian leaders of public opinion of today, from claiming the same heredity of traditions from their forefathers to rule the States. The present Princes do not possess the martial spirit and the administrative qualities of their ancestors. They are not generally endowed with education and do not possess much culture. On the other hand



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the leader of the people, have profited by their contact with the West, have enriched themselves with Western culture and knowledge and are intimately acquainted with their own history and are equipped with the knowledge of modern arts and Sciences. They are, compared with their ancestors, far advanced and enlightened. The present Princes cannot stand any comparison with their forefathers in any respect. The boast, therefore, of Indian Princes, that they possess the tradition to rule is untrue in fact and vain-glorious in spirit. As regards having stake in the country, the Princes and the people stand in the same category. If the Princes are deprived of their present position, which they hold merely by the sufferance of the Paramount Power, what stake have they left in the country? Who cares for the deposed Prince or for one who has voluntarily abdicated his Gadi? Is he not in the position of a man in the street? The talk of having a stake in the country is, therefore, utterly impudent and devoid of any sense. We equally are at a loss to see why the martial classes would refuse to render obedience to the leaders of our people, if they are elevated to the position of trust and confidence in the government of their country. The fighting men all the world over have given unquestioned allegiance to their officers. It is the Government that creates the officers and in them vests the authority of command. It alone can take credit for the loyalty of its soldiers. Indian soldiers have fought enthusiastically and heroically under the command not only of the Princes but even under the command of men from the masses. Quality of leadership is required to command and not merely position by birth. If veteran Indian soldiers show respect to a young European subaltern, if he is invested with authority and is placed in command over them, what reason there is to believe that the Indian officers if they are permitted to occupy the commissioned ranks would fail to command implicit allegiance from the army and the fighting men under their charge.

The fourth objection is that the commoners of today have no traditions of knightly honour. This might be true in the sense in which the Princes put it. But the commoners can at least decently claim the pride of purity of blood from their revered ancestors. A humorous mathematician once stated that if we take into consideration the intrigues of the harem and the voluptuous life led by men and women of Royal Families it is hardly possible that even one percent of them can legitimately claim purity of blood and pride of breeding. It is better on the part of all not to raise such questions in such discussions, and the less said about this

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point by all parties, the better. The fifth objection is that the authority of the leaders of public opinion in British India would not stand even for a minute without the support of British bayonets. But it is thoroughly unfounded. As a matter of fact the reverse of it is quite true. The Indian Princes cannot stand even for a minute without the protection of the British Power. Indian States would have been subject to the natural process of a successful revolt or rebellion before this if the British Power had not guaranteed protection to them. Almost all of them by reason of their autocratic rule and maladministration would have long ago undergone vast dynastic changes. The permanence of the houses of the Indian Rulers is due solely to the British protection. On the other hand when India will be Self-governing, the Indian leaders would defend their country against all foreign enemies and also maintain peace and order within the country with the national army. Self-governing countries all the world over have been doing this. There is no reason to believe that Indians alone will fail to keep intact their own Government and uphold the prestige of their own country against attacks from without or within. Power of defence is one of the first requisites for responsible government and when the Indians would be fit to bear the weight of responsible Government they would undoubtedly properly discharge their duty of defending their country including these Feudatory States. The last objection raised is that the Indian leaders have no inherent claim for position and power; this seems to us quite meaningless. If foreigners have a claim for power and position by reason of their superior strength, we fail to see why British Indian leaders, when the power of administering this country would be delegated to them by the present British Governments, could be deemed as having no claim for position and power. When installed on the Gadi of Swarajya the British Indian leaders—these very commoners—would force allegiance and undoubted homage from these discomfited but recalcitrant Princes.

Another very ludicrous objection voiced by the Indian Princes is that they would feel intense mortification if they are placed under Indian Political Officers. It is difficult to speak with restraint about the effrontery manifested by this sentiment. The Indian Princes are not ashamed to fall prostrate at the feet of any white Political whatever may be his social position in his own country; but that they should say that they feel humiliated in accosting with due respect and honour, one of their own countrymen, elevated to the position of a Political officer, by dint of his merit,

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shows only the depravity of slave mentality of these Princes. We know as a matter of fact, well-bred and high-souled Indian Princes have shown entirely a different attitude of courtesy and respect, towards their own countrymen when they were called upon to occupy places of trust and confidence under the Crown. The following story narrated by the biographer of Lord Minto deserves attention in this connection. Writing about Mr. Sinha (now Lord Sinha) he observes "The notion that his appointment would give offence to the Ruling chiefs was dramatically disposed off when in September Scindia came to Simla and of his own accord made it his first business to call on Mr. Sinha. Minto wrote "Times have changed. How long would it take *indicus olim* to recognise the fact". On the other hand the generality of the Indian Princes, by reason of their overbearing haughtiness, which is the result of their autocratic powers, are chafing and protesting against the Indianisation of the Political Department. It is said that when the Government made a reference to the Indian Princes to ascertain their views about the Indianisation of this Service, the Indian Princes with few exceptions denounced this proposal. They invariably preferred a European Political Officer to an Indian Political Officer. The patriotic impulse of these Indian Princes can be very well measured from this attitude of theirs. Sir O'moore Creagh in his "Indian Studies" has given a curious example which echoes the sentiment expressed by the '*Round Table*' writer. We make no apology for quoting this. "Lord Hardinge had issued an order in 1912-13 directing feudatory chiefs, whenever they came to the Head-quarters of the Government of India, to call personally on all the members of the Executive Council. The Chiefs were deeply aggrieved. At this time there was a Bengalee Musalman lawyer as the Executive Councillor of no social standing in their eyes. They strongly resented being obliged to call on such a person. They have always been in the habit of calling voluntarily on those English men of the Council whom they did not know and for whom they took the trouble of making their acquaintance." These two instances speak for themselves. And so no further comment is necessary on the absurd attitude of the Indian Princes. But we cannot help remarking that with such perverse mentality and irreconciliable temper, the Indian Princes will forfeit all claim for honour and respect at the hands of British Indian statesmen. Blood is thicker than water and we earnestly appeal to the Indian Princes to assume a saner attitude of courtesy and comradeship, worthy of their position,

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befitting their sentiments of patriotism and regard for their motherland and for the illustrious sons of the soil.

The '*Round Table*' writer has made an amazing statement in the following words. "It is by no means clear that the legal position of the Indian States has not been considerably affected by the last Government of India Act, the framers of which do not seem to have had sufficiently clearly before their eyes the peculiar position which the Indian States occupy in the Commonwealth." With due deference, we can state that the amendment of the Government of India Act by the Act of 1919 makes absolutely no alteration in the position, so far as the provisions relating to Indian States are concerned. We wish the writer had made clear the insinuation in his criticism by reference to the sections of the Act. Section 33, which vests the superintendence, direction and control, even of Indian India, in the Governor-General, is substantially the same as it has been ever since 1773 and therefore no change has been made in the Statutory position, which the feudatory States are occupying, in the body politic in the Government of India. As a matter of fact a new position is now being asserted on behalf of the Princes and by their apologists and it is difficult to seek any corroboration of this new-fangled theory, in the four corners of the Government of India Act. The writer in the '*Round Table*' also says that there is a mass of political practice, surrounding the treaties and engagements, part of which is in a fluid condition and part of which is crystallized into a mass which is not to be neglected when we are considering this question. The 'writer' recommends that this also should be modified and shaped so as to make the autocratic Rulers still more irresponsible in their States. We regret that the 'writer' has utterly ignored another salient factor, which forms a substantial part of Indian India. The subjects of Indian States are pulsating with new ideas; hopes and aspirations have crossed the frontiers. The doctrine of self-determination, by reason of its reiteration in British India, has dawned upon the subjects of Indian States. It is no longer possible to ignore this element, when considering the solution of this knotty problem. We are, however, astonished to find that this self-appointed mentor of the present government, who has drawn such a hideous picture of the future Commonwealth and who has grotesquely painted the discreditable champions of autocracy, should have forgotten to take stock of a militant factor in the composition of Indian India. The spirit of reform and the keynote of human progress in this age, is the 'advancement of popular rights'. It does not matter if they exist in British India or in

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Indian India. The forces of democracy are aggressively thrusting themselves on public attention in British India. They are yet in a dormant condition in Indian India. But the sparks of agitation in British India have ignited the hidden combustible material in the Indian States and it is feared that it will be ablaze before long. Wise statesmanship, therefore, lies in not brushing aside the issue but in confronting the same and in finding a proper solution, The '*Round Table*' writer seems to us to have shown a lamentable lack of perception of this vital problem. Perhaps his instructions might have been otherwise. But it must be said that he has not done his task in a judicious and impartial manner, as was expected of him.

The last observation of the 'writer' strongly appeals to our risible faculties. He says: "If some world catastrophe were to compel the British to leave India tomorrow and abandon the destinies of the country to the arbitrament of the sword, the States would remain the only stable political units. They are the living embodiments of the tradition of Government." The example of Soviet Russia gives a crushing reply to this fantastic hallucination. We can assure the 'writer' that in the event of such an untoward event happening, the leaders of Indian people would live and succeed in this struggle. The embodiments of autocracy would rather go to the wall as has been the fate of all monarchies of Western Europe during the great war including even mighty Russia whose august Emperor proclaimed his divine right to misrule in the following edict. "The Emperor of all Russia wields a supreme autocratic power. To obey his authority not only through fear but for the sake of conscience is ordered by God himself." This was in 1900 but the dynasty of this very Emperor was wiped out by the Soviet republic in 1918. It is significant to note that not a single Prince has taken the trouble to disown the several misstatements of this round table writer and one can safely infer that the writer faithfully paints the prejudices harboured by the Indian rulers.

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## III

## PROFESSIONS.

The Indian Princes have been professing great sympathy with the aspirations of their own people and with the people in British India. They have, however, not disclosed their scheme, their definite proposals or their demands to the people. They only want that the public should trust them, on their mere *ipsi dixit*, that they are trying to secure the welfare of the *State* meaning thereby their own selves and their people. The only material which is available to us to judge the motives of the Indian Princes, is the publication of a resolution which was passed at a meeting of the Indian Princes held in Bombay 19th April 1928. This resolution requires detailed consideration with a view to know whether these professions of the Indian Princes are genuine and sincere. Clause A of the resolution is put there to show the appreciation of the Princes, for the appointment of the Butler Committee to enquire into the relations of the Indian States with the Paramount power and British India. This cluase itself is mischievous. The announcement made at Rajkot by His Excellency the Viceroy about the Indian States Inquiry Committee, only mentions that it was appointed to report upon the relationship between the Paramount Power and the Indian States. It does not make any difference between the Paramount Power and British India. The resolution insinuates that the Indian States have relation with the Paramount Power and also with the Government of India. This in other words means the pet theory of direct relations with the Crown, which they have latterly foisted up to support their autocratic Rule. The untenable character of this theory is exposed in detail in the supplement " Direct relations with the Crown—Theory Exposed." We do not therefore think it is necessary to reiterate the mischievous character of this fantastic theory. Claus B is only an expression of opinion of the Indian Princes and no one quarrels with it. The third clause declares the resolve of the Princes to devote to the moral and material progress of the subjects of the States the advantages resulting from the equitable adjustment of fiscal and economic issues. How this intention of the Princes is to be carried into practice is not explained either by the Princes or by their supporters. The resolution to the most describes a pious wish. The past conduct of the Indian Rulers does not warrant that the people can trust the Princes and therefore their mere pompous pronouncements are futile. What guarantees the Indian Princes are prepared to provide, with a view to convince their subjects, that if

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any advantages accrue in the economic and financial adjustments in British India, they would be earmarked for the benefit of the people of the States ? The budgets of the States are not made public. There is no opportunity to criticise the budgets, no facilities to vouchsafe the appropriations in the budgets and no independent audit, in these States. How can the people know that the advantages secured are utilized for the benefit of the people. Unless, therefore, unequivocal and constitutional guarantees are given to people, a passing of a mere resolution like this, would entirely fail to inspire confidence in the minds of the people about these professions of the Indian Princes. The fourth clause declares the intention to join with His Majesty's Government and with the Government of India and the people of British India in working for a solution which shall procure protection for all interests and progress for all *India.* How utterly misleading this resolution is has been made abundantly clear by the Scheme of Sir Leslie Scott, which was discussed at this meeting held in Bombay. The scheme for joint consultations aims to subvert the constitutional position of Indian States and British India. The Indian Princes want to subordinate British India to Indian India, for safeguarding their common interest. The scheme ignores the subordinate position of the Indian States. It raises the Indian States to a position of equality, with the Government of British India. We have shown in the accompanying statement, how fantastic and preposterous this scheme is and how it cannot stand a moment's scrutiny. If these are the intentions of the Indian Princes for joint consultations to protect common interests, we have to tell the Indian Princes that there is a parting of ways and common consultation is impossible with such preposterious ideas. The fifth clause affirms the abiding determination of the rulers of Indian States to ensure the rule of law in their States and to promote the welfare of their subjects. This is merely an eyewash. In a majority of Indian States there is absolutely no rule of law. Liberty of person, liberty of conscience, security of property, liberty of Press, freedom of discussion, liberty of meetings, absence of Royal lawlessness, protection against official Zabardastism, equality of all in the eye of law, control over finance and expenditure, responsibility of the Executive to the people these are the main *indicia* of what is understood to be as the rule of Law in constitutional law. We put it to the Indian Rulers, how many of these privileges are enjoyed by the people in the Indian States ? Can it be said that even in a single one, amongst the 700 States, rule of Law, in the sense in

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which it is understood, under constitutional law, exists? The principal grievance of the Indian States' people is that there is no rule of Law in the Indian States. They also maintain that so long as there is autocratic rule it is not possible that rule of Law can exist and thrive. Parliamentary Government, Constitutional Government, must be established before these privileges of the rule of Law can be enjoyed by the people in an undisturbed manner. We challenge the Indian Princes to say how many of them can honestly assert that they have introduced the rule of Law and that their people are enjoying the blessings of this rule in their States. If a Commission is appointed to inquire how far the rule of Law in its constitutional meaning, exists in any of these 700 States, how many of the Indian Princes would appear before such a Commission to prove the existence of the rule of Law in their States? This resolution is, therefore, mere camouflage and is intended to mislead persons not conversant with the condition in the Indian States. Barring few exceptions almost all of them have made absolutely no effort to promote the welfare and good Government of their subjects. It is significant to note that the resolution does not say self-Government nor responsible Government for the subjects; but even if we confine ourselves to the ideal of good Government it is conspicuous by its absence in most of the Indian States. No vestiges of good Government exist in the majority of them. There is no limit to the private expenditure of the Chief or ruler in an Indian State. There is no constitutional restraint on him. All the resources of the State are appropriated for the whims and caprices, for the pleasures and pastimes of the Ruler. There is no independent judiciary. There is no efficient and honest service and there is absolutely no association of the people with the Government of the States in any shape or form. Are the Princes prepared for a public examination on this question viz. whether there exists good Government in the Indian States and if so what are its characteristics and what is its extent. Excepting mere assurances to promote the welfare and good Government of the subjects nothing substantial is realised by the subjects in all the Indian States. As regards the sixth clause, constitutional ties do exist between the Indian States and British India. If the Government of India is alive to its responsibility for the welfare of the people of Indian States which exists independently of treaties and if it enforces treaty obligations, and if the Indian Princes are conscious of their duties as feudatory rulers, duties which flow from their very subordinate position, if they honestly and faithfully discharge



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their treaty obligations, satisfactory adjustment of the relations could permanently be secured between British India and Indian India. In the memorandum we have shown how these duties have been neglected both by the Government of India and by the Indian Princes. Forgetting their own limitations they are setting up wide claims of sovereignty and aspire to maintain autocracy, unchecked for all time to come. With such mentality it is impossible to believe that any good understanding would prevail between the Indian Rulers and the future democratised Government of India. The draft Swarajya constitution approved by the All Parties Conference has shown how relations between Indian India and British India would be harmoniously adjusted for the benefit of both. The Indian Princes, however, have been under a delusion and have assumed an attitude of antagonism to the progressive realisation of responsible Government in British India. Their demand that the control of the Army should forever remain with the bureaucratic and irresponsible Government, their desire that the future Common-wealth should be divested of the control over the British Indian Army, their ambition to separate the Political Department from the future Government of India, their plan of a rival Government, their effort to establish an eternal Dyarchy in the country and their insistance on the suicidal policy of free trade to the prejudice of the Indian trade interests. and their preposterous title of equality with the Government of India, all these unequivocally prove that the Princes are bent not only in keeping under perpetual bondage themselves and their own people but even the people of British India so long as they could. This attitude of the Indian Princes is very disappointing and no one would be misled by the pompous resolutions they have published. The seventh and the last clause of the resolutions reaffirms their sympathy with the aspiration of the British India which they regard as legitimate. How false in fact the resolution is, may be guaged from the scheme of their legal adviser, from their theory of direct relations and from their pretensions to be treated as independent and autonomous units with British India. Those who can read between the lines unmistakably discern that the present movement of the Indian Princes is suicidal and unpatriotic.

## PLAYING IN THE HANDS OF BUREAUCRACY.

For a long time, since the announcement of the appointment of the Butler Committee every body was at a loss to know the inner object of this Committee. Neither the British Indians nor the Indian

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States' people were taken into confidence, before Government decided to appoint it. Immediately after the Viceroy made the announcement at Rajkot the Chancellor of the Chamber of Princes, the Maharaja of Patiala, rushed into print and expressed satisfaction of himself and of his Order at the aunouncement. We thought that the interests of the Princes would be advanced by this step. But to our intense regret that the Indian Princes are made the scapegoats by the Bureaucracy to thwart or to obstruct the *Swarajya* movement in British India. Shrewd observers had scented the danger. But evidence is now forthcoming of an unimpeachable character, which discloses the suicidal and unpatriotic conduct of the Indian Princes in getting this Committee appointed. They are made the tools by the reactionary statesmen. The unstatesmanlike view and the short-sighted policy of the Indian Rulers has sacrificed national interests and national independence in the first half of the 19th century. The history of the consolidation of the British power unmistakably shows that the disloyal conduct of many Sardars led to the downfall of the Maratha power and the consequent establishment of the suzerainty of the East India Company. Now again after the lapse of a century the same drama is repeating itself. Efforts are being made to transfer the authority of the Paramount Power from the Agents of Parliament to the Agents of the people; but even to-day unfortunately the same nefarious, almost treacherous and despicable game is being played by some of the Indian Princes, in buttressing the demands of the reactionaries to withhold Dominion-status from the British Indian people. The legal advisers of the Princes have twisted and distorted words of the treaties to foist up an untenable claim of direct relations with the Crown, with a view to bring about a complete dissociation from the Swarajya Government of the British India. The Princes have shown their positive dislike to live under the Swarajya Government, which would be a responsible Government, and they are showing great solicitude to live eternally under the government of foreign bureaucracy, which is an irresponsible Government. They have expressed serious apprehensions about their rights being encroached upon by the future Commonwealth of India. They do not want to occupy the self same position under it which they are now occupying under the white bureacracy. Though dissatisfied with the management of the Political Department and though complaining bitterly that their treaty-rights have been violated by it, they are anxious that the same Department should not be made responsible to the legislature as other Departments of the

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overnment of India are bound to become in the near future. They feel ashamed to be under the control of Indian Political officers or an Indian Minister, responsible to the people, but they do not feel any humiliation in submitting themselves, with an amount of zest, to the behests of the sun-dried bureaucrats whose respectability, decent and family status these tin gods do not at all know. They feel suspicious about the Democracy of their own countrymen but they do not feel any mortification in appealing to the British Democracy which is composed of British Labourers, men and women of the Ruling race. Only the other day it was reported that H. H. the Maharaja Jamsaheb was requesting the British Labour Associations and their leaders to come to their rescue and to save them from the growing tide of the Indian Democracy. The mentality of the Indian Princes is difficult to descipher. That the demoralisation caused by autocracy should have rendered them oblivious to a sense of self-respect and national patriotism to such a degree, is passing comprehension. It is really a strange reward for the British Indian people for all the innate sympathy, courtesy, kindness, genuine regard and softness of hearts shown towards these Indian Rulers, as remnants of the glorious past.

We find that their paid champion is claiming on behalf of the Indian Princes, that the British power should hold in its hands, for all time to come, the control of the Indian Army to protect the blessed lives of these illustrious Princes and their families. They urge that the future Commonwealth of India should be divested of the control over the army. Shorn of the power of defence the Swarajya Government of the future would have to remain in leading strings till doomsday. They thus want the real power in the land, the control of the army should remain with the British Government and not with the Commonwealth of the future. How patriotic this conception of the Princes is, it is needless to mention. We, however, put it to them, why do they entertain this distrust about their own people? Neither past history nor past relations warrant such a belief. Fear of selfpreservation does not seem to us to be the dominant motive behind it. We believe that the Princes and Chiefs, at an enormous cost to themselves and their subjects, are playing into hands of the bureaucracy who is anxious to perpetuate its control over this land and is using the Indian Princes to secure its own end. The price for all this, which the Princes are to get is the unlimited exercise of autocratic powers in their own States. The Political Department which is to control them is not to be responsible to any authority of the future

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Commonwealth. How easy it is for the Indian Rulers to satisfy the politicals, at the sacrifice of the resources of their own people is too well known to Indian States' people, to need any specific mention. The Political Officers are assured of their power, of their emoluments and of their perquisites, which they enjoy in an unlimited manner in Indian States. As a return for these concessions there is to be no interference in the affairs of the Princes and they are to be allowed to rule in their States, in a despotic manner. This is the secret pact, we fear, which is in the incubator of the Butler Committee. Whether it is righteous, patriotic, equitable and just, it is needless to dilate at length. By squandering their resources over their legal adviser, as Sir Leslie Scott, the Princes are made to support the cause of the bureaucracy, to maintain military power in its hands, and to enable it to enjoy the green fields, and pastures of the Indian States till eternity.

The third great object, to accomplish which the Princes have been requisitioned, is the maintenance of the British trade interests at the sacrifice of the trade and industries of this country. By the policy of free trade, the indigenous industries have been totally destroyed and by a policy of deliberately keeping the Indian people utterly ignorant of technical arts and sciences, the resources of this country are being exploited in furtherance of the British interests. The evil consequences of the policy of free trade, which was imposed upon the Indian Princes by diplomatic pressure have been fully realised to the utter impoverishment of the masses in this country. Vast quantities of raw material are being exported, which could have been turned into useful commodities necessary for the every day consumption of the people here and which could have solved the problem of unemployment in this country. Since the reforms which gave some power to the representatives of the people the policy of protection is being urged and partly adopted. The creation of the Tariff Board, the imposition of protective duties on Steel and other articles, with a view to foster the growth of nascent industries which, but for protection, would be entirely destroyed, and thereby aggravate unemployment and poverty are the beneficial results of the reforms introduced lately in India by the announcement of 1917. The protection of Indian industries means proportionate loss to British Industries, British labour and British capital. If Swarajya Government is established, there is absolutely no doubt that a policy of protection will be resorted to with a view to give stimulus to all indigenous industries, which require protection. Every national Government anxious to advance the material

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progress of the people of its country has resorted to protection, as an absolute necessity. The prospect of Swarajya Government, therefore, has struck terror into the hearts of British capitalists and British labour. With the experience of the war vividly before their eyes, British statesmen cannot decently advocate the policy of free trade in India at this juncture. They did so at a time when the people were ignorant and thus brought utter ruin to this subject nation. The result of this policy of free trade has been intense poverty of the people and moral degradation. The Swarajya Government is bound to adopt a policy of protection to encourage indigenous industries and thus to add to the wealth of the country ; and this would necessarily mean loss to the British Capitalists and increase of unemployment in the United Kingdom. They, therefore, want some justification to maintain intact the policy of free trade, so ruinous to the interests of this country and the most convenient tool in their hands is this class of Indian Princes.

The next demand which is being made is that the British Government should pursue the policy of free trade to safeguard the interests of the Princes and thus make it impossible for the Swarajya Government to adopt a policy of protection. The writer in the *Manchester Guardian* who seems to possess inside knowledge of what is brewing in the secret conclave of this Committee, has thrown lurid light upon the machinations of the Indian Princes tending to throttle not only the future constitution but the interests of the people inhabiting this country both people of British India and Indian India. The writer states " One of the leading issues to be fought out is that of fiscal policy. The Government of India has followed as every one knows a protectionist policy. But the Princes urge that their interests are in many ways injured by protection· The native States are agricultural and cheap imp rts, cheap cotton goods, cheap agricultural implements and so on are what they desire. The question of protective duties was mentioned by the Maharaja of Patiala in his speech as one of the questions on which the Princes have found themselves most deeply and vitally affected by policies in the framing of which they had had no hand. " This clearly shows the real meaning of the second term of reference to the Butler Committee. We are not enlightened as to how the subjects of the Indian States would be benefitted by a policy of free trade which has reduced them to a state of starvation along with their brethren in British India. No sane man can urge that Indian States would benefit by a policy of free trade. This claim of the Princes, therefore, leaves no shadow of doubt in one's mind as to which

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interests the Indian Princes are serving, those of themselves or their people or the Britishers or the British bureaucracy. These demands of the Indian Princes strike at the very root of the future Commonwealth. Self-Government would not be worth a moment's purchase if their demands are conceded, viz. ( 1 ) the demand for retaining the control of the Indian Army, on the ground of their protection would deprive the future Government of the right of self-defence; it would keep the Swarajya Government in perpetual bondage ; (2) the separation of the Political Department from the future Swarajya Government would protect the intersts of the Bureaucracy till eternity, would perpetuate autocracy in the States and would reduce the position of the subjects of the Indian States to slavery and would impair materially the efficiency of the admininistration of the future Commonwealth of India; ( 3 ) the demand for a policy of free trade would destroy all national industries and keep the country in abject poverty and moral degradation. We, therefore, put it to the Indian Princes, if this is evidence of their sympathy with the aspirations of British India. No one who is outside Bedlam can answer this question in the affirmative. What self destructive part the Indian Princes are playing, by agreeing to be tools in the hands of designing people would be quite patent from this last demand. This is a climax of unwisdom and by their unpatriotic attitude the Princes are undermining the future Swarajya constitution and are strengthening the hold of the foreign control on this country. No wonder then that they are forfeiting the sympathies of all patriotic Indians engaged in the uphill fight of winning Swaraja from an alien bureaucracy, by following a policy of short-sightedness and unwisdom.

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# Correspondence with the Butler Committee.

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Servants of India Society,
Sandhurst Road, Bombay.
3rd January 1928.

From

THE GENERAL SECRETARY,
ALL INDIA STATES' PEOPLE'S CONFERENCE.

To

LIEUTENANT COLONEL G. D. OGILVIE,
SECRETARY TO THE BUTLER COMMITTEE, DELHI.

Sir,

On behalf of the Executive Committee of the All India States' People's Conference I am sending this letter.

The Associated Press Agency circulated in the papers a telegram on 28th November sent by the Maharaja of Patiala to His Excellency the Viceroy in his capacity as chancellor of the Narendra Mandal. The telegram ran as below :—

"As Chancellor of the Narendra Mandal and on behalf of the Princes, I should like to convey to Your Excellency and through Your Excellency to His Majesty's Government my thanks for the announcement made at Rajkot. The acceptance of the proposal put forward at Simla will be greatfully received by all Princes participating in the Conference and by those for whom they spoke. We are deeply sensible of this fresh manifestation of Your Excellency's appreciation of the importance actual and potential of the Indian States as factors in India's future and we feel that nothing but good can eventuate a frank enquiry into our difficulties, whether experienced or apprehended."

Will you kindly send a copy of the proposal put forward at Simla with a view to state the peoples' point of view relating to this proposal before the Butler Committee? Is the inquiry going to be

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public? Is any questionnaire being issued about this Committee? Will the Committee allow public bodies and private individuals to give evidence before the Committee and submit their say? I shall feel very thankful if you will send a reply to the above querries.

I have the honour,
to remain Sir,
Your obedient servant,
G. R. ABHYANKAR,
General Secretary,
Indian States' People's Conference.

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D. C. No. D129-I. S. C.

Office of the Indian States Committee
Old Secretariat Buildings.
Delhi, the 10th January 1928.

Dear Sir,

I have received your letter No. nil, dated the 3rd January 1928. The Indian States Committee will not assemble till the middle of this month and it is therefore not possible to answer your letter at present. A reply will be sent in due course after the Committee assembles.

Yours truly,

Secretary,
Indian States Committee.

To,

THE GENERAL SECRETARY,
ALL INDIA STATES' PEOPLE'S CONFERENCE,
Servants of India Society, Sandhurst Road,
Bombay.

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No. D. 129-I. S. C.

From,

THE SECRETARY,
INDIAN STATES COMMITTEE,

To,

THE GENERAL SECRETARY,
ALL INDIA STATES' PEOPLE'S CONFERENCE,
Servants of India Society,
Sandhurst Road,
Bombay.

Dated Camp ( India ), the 4th February 1928.

Dear Sir,

In continuation of my letter No. 129-I. S. C., dated the 10th January 1928, I am desired to inform you that the Indian States Committee have now considered your letter dated the 3rd January. It is regretted that a copy of the proposal put forward at Simla cannot be furnished to you, because it was put forward orally and not in writing. The enquiry to be held by the Indian States Committee will not be public in the sense that the public will be admitted to its deliberations. The Committee is not empowered by its terms of reference to deal with the relations between the Indian States and their subjects and they are therefore not in a position to accept the evidence of public bodies and private individuals either written or oral in regard to this subject.

Yours faithfully,

Secretary,
Indian States Committee.
4th February 1928.

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From,

PROFESSOR G. R. ABHYANKAR,
LAW COLLEGE, POONA.

To

LT-COL. G. D. OGILVIE,
SECRETARY TO THE BUTLER COMMITTEE,
DELHI.

Sir,

In continuation of your letter No. D. 129 I. S. C. dated 4th February 1928, addressed to me as the General Secretary, All India States' People's Conference, I beg to submit the following considerations which I request you to place before the Honourable Members of your Committee.

You state that the proposals made by the Princes at Simla were oral and not in writing and therefore a copy of the same could not be supplied. I regret you have not appreciated the object of this request. The request was made with the obvious object of knowing the views of the Indian Princes as the outcome of which this Committee has been appointed. Those views must have been communicated to the Governor General and also to the Secretary of State for India before the Viceroy in consultation with the Secretary of State announced this Committee. It was in fairness, therefore, due to the public to know if not the exact words at least a rough outline or the summary of these views. I am, therefore, extremely sorry that the Committee do not wish to take the public into their confidence and communicate the substance of those proposals.

Your letter says that the Committee is not public in the sense that the public will be admitted to its deliberations. I am simply surprised at this statement. I am sorry the scope of the present terms of reference too has not been adequately perceived since the Committee declines to accept the evidence of public bodies and private individuals either written or oral in regard to this subject. With due deference to this Committee I venture to submit that this is not a sound view; that the public have a right to represent their views on the specific two terms of reference. I therefore wish to place the reasons for this in this letter which I request you to place before the Committee.

As regards the first term of reference the relations of the Indian States with the Paramount Power naturally embrace three important points which may be gathered from the writings and speeches published in the press till now. These points are (a) direct

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relations with the Crown, (b) complete independence in internal affairs so as to regard the States as politically separate and constitutionally independent units of the Great Indian Empire, (c) policy of the Paramount Power towards the Indian States. I beg to submit that on all these three points there is a distinct peoples' point of view which ought to be considered before the Committee reaches any conclusion.

(a) From the letters of the Simla correspondent of the London Times, from the September Number of the Round Table Magazine this theory of direct relations of the Indian States with the British Crown is developed and is faintly suggested in the speeches of the Maharaja of Bikaner and the Maharaja of Patiala. I do not know what the advocates of this theory mean by the word Crown; whether they mean that the relations of the Indian States are with the Royal Family of His Majesty or if they are similar to those of the Crown Colonies, or if they are with the Crown as the Head of the Government of the United Kingdom the administration of which is being carried on by the Agent of the constitutional adviser of His Majesty acting under Parliamentary Statute. The people of the Indian States maintain that these relations do not savour of the first two types but they are with the Government of India which has to pay due obedience to the Secretary of State who is responsible to Parliament and who is the constitutional Adviser of His Majesty. The subjects of Indian States further think that since the Regulating Act down to the time of the transfer of the Government to the Crown by the Statutory enactment of 1858 and that of 1919, the Indian States are connected with the Government of India and are under the control of the Governor General in Council. Their treaties are made not with the Viceroy but with the Governor General. They are, high and low alike, under the control of the Foreign and Political Department of the Government of India. The subjects, therefore, do not lend support to this theory. They urge that it is not tenable on the ground of any treaties, past history or political practice. They further hope that if they are associated with the Government of India the Political Department which is now irresponsible may become responsible to the Central Legislature in the future and that they do not fear that the democratised constitution in British India would ever prejudice their interest. They also believe that the Indian Rulers provided they abandon medieval autocracy and adopt mordern ways of Government and determine to rule as constitutional monarchs would be treated with the same esteem and respect by British Indian statesmen and there is not the slightest

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reason to apprehend any interference or any danger from the future responsible Government in British India. They equally and firmly hold that if the Indian States are separated from the constitution of British India as autonomous and politically independent units the Government in British India would come to a stand-still. They fear that if they are placed under any deplomatic service working under a Viceroy entirely detached from the Government of India they would be entirely denied those opportunities of redress and complaint which they at present possess although it is a matter of every day experience that the Political Department is generally reluctant to interfere in their behalf.

For all the reasons which I have stated in their outline and which may be amplified in detail if any opportunity is afforded, there is a distinct point of view of the Indian States' subjects which deserves to be considered by this Committee when dealing with this first term of reference.

(b) The second point is complete independence in internal affairs. The Indian Princes have been incessantly maintaining that they are independent in their internal or domestic affairs. This position also is not supported by any treaties or by the political practice. This confusion has arisen by reason of the expression autonomous used in connection with the Indian States in Chapter X of the Montford Report. So far as internal legislature is concerned and so far as taxation is concerned many of the States called autonomous or described as enjoying full powers of internal sovereignty—these two powers of legislation and taxation are really possessed by these States. They do not possess the power of defence. This power vests in the Government of India which is responsible for peace and order in the States. The Gadi of every Indian Ruler is protected by the strong arm of the Government of India. These States, therefore, lac this insignia of sovereignty viz, defence. As a corollary of this power the British Government of India is responsible for securing good government to the people consigned to the care of the Indian Rulers. In ancient times before the advent of the British power, if a Ruler misbehaved, indulged in mal-administration goaded his people to desparation they had their remedy which was their birth-right viz, rebellion, revolution, assassination, anarchy, political commotion and unrest. Now this has become impossible. The mighty strength of the Paramount Power prevents this catastrophe in every State however ill-governed it may be. Peace and order is maintained. The dynasties of the Rulers are perpetuated and safeguarded. As a corollary of this the Paramount

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Power has the right to insist on the Rulers to secure good government to their subjects. If the Indian Princes want complete independence in their domestic affairs are they prepared never to invoke the assistance of the Paramount Power? Are they willing to square their accounts with their subjects? What guarantees they are prepared to give in case their subjects are forced to rebell by reason of misrule? Is the Paramount Power going to wait and withhold and not interfere in the internal administration in such a contingency? This is a vital question. It is intimately connected with the duties of the Paramount Power. The Indian States' subjects owe allegiance not only to their Rulers but also to the Paramount Power. The price of allegiance is protection and the security of good government. In the adjustment of political relations of the Paramount Power with the Indian States this duty of the paramount Power to ensure good government to the subjects of the States looms large. It is not, therefore, necessary to hear what the subjects have got to say? If the Paramount Power insists upon the Rulers to furnish any guarantees for securing good government to their subjects is it not just and fair that the subjects should have an opportunity to say whether these guarantees are adequate and proper. This duty of the Paramount Power to secure good government to the subjects of the Indian States has been admitted since the time of Lord Cranbrook and was authoritatively pronounced by Lord Reading. The claim of the Indian Rulers for internal sovereignty is untenable in view of treaties and the political practice. How dangerous this concession of internal sovereignty which in other words means non-interference into internal affairs would prove to the subjects would be explained in detail supported by history if only opportunity is given to them.

There is another cosideration jermane to this very topic viz, the position of intimate relations of the Indian Rulers and of their feudatories and other alienees of land revenue subsisting under them. Numerous complaints are being ventilated every day of the ill-treatment meted out by the Rulers to their wives, to the heirs-apparent, to sons, daughters-in-law, parents and other relations. In the case of ordinary people for a legal wrong done there is a legal remedy under common law or the laws of the States.

But there is no forum in any Indian State in which such unhappy relations mentioned above would get any relief against a Ruler for wrongs done by him. The aggrieved relations have to entreat the Political Officers who generally are reluctant to intervene and the lot of such persons becomes simply intolerable. If the

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Paramount Power is going to concede internal independence to the Indian Rulers what provision they want to make to give adequate relief to helpless relations of an Indian Ruler. Or do the Paramount Power want to provide no remedy for a legal wrong which is every day suffered in the Indian States? These relations do come under the category of subjects. I appeal to the Committee if they want to shut out this evidence when considering the first term of reference.

There are various feudatories and Inamdars under every Ruler. The tendency of the Rulers has been of late to annihilate this class on one pretext or another. to grasp and covet whatever they possess in the State. The aggrieved people of this class have to run to the political officers for redress. The Government anxious to placket these Rulers is unwilling to advise them to do justice to this class If the Government is thinking of conceding full autonomy and sovereignty to the Indian Rulers what safeguard they want to propose to them for securing justice to wronged persons of this class? Would it be equitable to consider the exparte views of the Indian Rulers without considering what the views of this class are.

It would be evident that the consideration of this question has material bearing upon the duties of the Paramount Power towards the States and it comes entirely within the four corners of this first term of reference. In adjusting relations of the Paramount Power with the States the duties which the Paramount Power owes to all the subjects of Indian States Including commoners, personal relations of the Ruler and privileged classes in the State shall have to be properly considered and defined and in the proper settlement the class of persons whom those duties primarily touch deserves to be given a hearing before any settlement is effected. The question of internal independence is indisolubly connected with the interest of the States' subjects and no inquiry would be complete unless fullest opportunity is given to those whose interests are vitally affected.

(c) The third point is the policy of the Paramount Power towards the Indian States. India includes British India and Indian. India. His Majesty's Government in 1917 has announced the policy which they want to follow as regards India. When therefore, the question of the adjustment of political relations with the Indian States is being taken for discussion the most pertinent point would be whether the Paramount Power would wish the Indian Rulers to follow in their wake. If not, would it be conducive to the solidarity of this Empire to allow the Indian Rulers to follow a policy which is opposed to that which is accepted by His Majesty's Government? All tall talk of the Indian Rulers would be sheer camouflage if they

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do not evince any interest or any keenness to faithfully follow this noble example of His Majesty. Are the Princes willing to accept this policy? Is it not necessary for the overlord to induce by deplomatic pressure these feudatories to adopt this policy? If the idea of federation is ever to be realised in India the Indian States shall have to conform to a standard form of administration prevailing in the various units of this federation. Is it not necessary for this Committee to ascertain from the Indian Rulers whether they are willing to subscribe to the announcement of 1917? How many of them are willing to act up to it? What steps they propose for the progressive realisation of responsible government in their States? In the adjudication of political relations the acceptance of a common policy would be quite indispensable. Otherwise what justification the Indian Rulers have to receive honours of salutes and decoration, invitations for State functions, nominations to Imperial War Cabinet and the League of Nations. If dignity is to be coveted is it not necessary that it should entail corresponding obligations? If the Indian Princes aspire for a quasi international status is it not necessary for them to honestly cooperate with the declared policy of His Majesty's Government? Does this question of common policy not form part of the first term of reference?

If the Indian Princes accept this policy the implications of this would be very important. They shall have to establish self-governing institutions under their aegis. They shall have to establish the rule of the law. They shall have to rule as constitutional monarchs. Space forbides me from expanding this topic. If an opportunity is given I shall make this quite clear. I have to briefly state that except in two or three Indian States there are no real representative institutions. They are mere shams to delude the eye of the foreigner as remarked by an eminent political writer. As regards rule of law it is to be confessed with shame and disappointment that with the exception of half a dozen States, security of person and property, liberty of the press, liberty of meetings, liberty of speech, absence of Royal lawlessness, equality in the eye of law, independent judiciary, association of the people with the administration, control over finance, control over the executive hardly exist. It is a dismal tale. This deserves to be unfolded and heard in detail when this question of the policy of the Paramount Power towards Indian States is under discussion.

It will thus be apparent without entering into the subject of the relations interse between the Rulers and their people the points of view of the subjects so far as they bear on the relations of the



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Paramount Power with the States, undoubtedly deserve to be heard. Is the Committee going to shut the same? I appeal to the Honourable Members of this Committee to consider the situation in this light.

As regards the second term of reference viz, fiscal adjustment of British India with the Indian States the subjects have a direct interest in this question. Railways, Post, Telegraphs, Excise, Exchange, monopolies of salt and opium and Customs are affecting prejudicially the subjects of Indian States. It is they who are indirectly contributing to the British Indian exchequer. When the question of giving relief to the Indian States comes to be considered what provision the Indian Rulers suggest that such contributions would filter down to the subjects who have mainly contributed to this source of income. The Indian State subjects do not desire that any contributions permitted by the Britsh Indian Government should go to swell the private purse of the Indian Rulers. Further more the subjects desire that they should have a representation to express their views in any organization that may be formed for this purpose. By reason of the complicated nature of the questions relating to matters of common interests and as the Indian Princes themselves by reason of their ignorance and incompetency would not be able to advocate their cause ably and fearlessly they insist that in the policies bearing on matters of common concern and in the departments relating to them they should have adequate voice and proportionate control independently of their Rulers. The Rulers do not represent them. Their interests are not identical with them and by reason of autocratic rule the subjects have no confidence in their Rulers that they would safeguard their interests in this fiscal adjustment. Are not the subjects entitled to have their say in this second term of reference?

In conclusion I trust that the Committee would be pleased to reconsider this request and allow the public to represent their views so far as the two terms of reference are concerned and so far as they understand the nature and scope of these two terms. I again request you to place this letter before your Committee.

I beg to remain,
Sir,
Your most obedient servant,
Professor of Constitutional Law,
Law College, Poona.

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Copy of this letter was also sent to His Excellency the Viceroy.

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No. D. 320 I. S. C.

From

THE SECRETARY,
INDIAN STATES COMMITTEE.

To

PROFESSOR G. R. ABHYANKAR, B. A., LL. B.
HIGH COURT VAKIL,
Sangli. (Southern Maratha Country).

Dated Camp (India), the 9th March 1928.

Dear Sir,

Your letter dated 22nd of February has been laid before the Indian States Committee and they desire me to inform you that, in view of what you say, the Committee will be prepared to consider the views which you wish to put forward. Owing, however, to numerous applications the Committee regret that they are unable to hear you orally, but they will be glad to receive a memorandum from you on all matters within their Terms of Reference regarding which you may wish to state your opinion and give your views. The Terms of Reference, as you are aware, have already been published in the press.

Your faithfully,
G. D. OGILVIE,
Secretary, Indian States Committee.

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SANGLI ( S. M. C.)
17th March 1928.

From

G. R. ABHYANKAR,
Sangli.

To

THE SECRETARY INDIAN
States Committee,

Sir,

I find from the Times of India of 13th March 1921 that a questionnaire has been issued by your Committee and is made available to that paper. May I therefore request you to send me a copy of the said questionnaire as to enable me to submit my representation to the Committee. This copy would enable me to avoid reference to points which may appear to be irrelevant from the same. If the Times of India can get a copy of the questionnaire I see no reason why it should not be supplied to me, as I am deeply interested in the inquiry of the Committee.

Hoping therefore that you will be pleased to furnish me with a copy of the questionnaire at an early date.

D. O. No. 366-I. S. C.

I remain,
Sir,
Yours faithfully,

Camp ( India ),
The 22nd March 1928.

Dear Sir,

With reference to your letter dated the 17th instant I am desired to inform you that your suggestion that the 'Times of India' was supplied with a copy of the questionnaire by the Indian States Committee is entirely incorrect. No copy has been sent to any newspaper by the Committee, nor is the questionnaire being issued to the public.

Yours faithfully,
G. D. OGILVIE
Secretary, Indian States Committee.

To

PROFESSOR G. R. ABHYANKAR, B. A., LL. B.,
HIGH COURT VAKIL,
Sangli ( S. M. C. )

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SANGLI.
S. M. C. Bombay Presidency.
24th June 1928.

From,

G. R. ABHYANKAR,
GENERAL SECRETARY,
All India States' People's Conference,
Sangli.

To,

THE PRIVATE SECRETARY TO HIS EXCELLENCY,
the Viceroy and Governor General of India,
Simla.

Sir,

I have the honour to forward herewith the accompanying letter which I request you to place before His Excellency the Viceroy.

I beg to remain,
Sir,
Your obedient servant,
G. R. ABHYANKAR,
General Secretary,
All India States' People's Conference
SANGLI.
S. M. C. Bombay Presidency.
24th June 1928.

May it please Your Excellency. On behalf of the Executive Committee of the All India States' People's Conference I crave permission to place this letter before Your Excellency for favourable consideration.

Since the assumption of the high office of Viceroy and Governor General of India Your Excellency has evinced keen interest in the problem of Indian States. Since then Your Excellency has extensively toured in the Indian States and Your Excellency has become personally acquainted with some aspects of these States. Similarly Your Excellency had interviews formal and informal with prominent Indian Rulers and with the members of the Chamber of Princes. Your Excellency it is reported had informal discussion with the Indian Princes before the appointment of the Butler Committee. Your Excellency had also convened a meeting of the Political

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Officers last year. Your Excellency thus had an opportunity to appreciate the views of the Indian Princes generally about the Indian States and particularly about their own grievances. The Confernce of the Political Officers must have thrown considerable light on this intricate problem of the Indian States. From the five questions circulated to the Indian Rulers it is abundently clear that Your Excellency has touched the vital points upon which mainly depends the welfare of the subjects of Indian States. It is however a matter of some regret that Your Excellency has not till now given any opportunity to the subjects of Indian States to place their views before Your Excellency nor does it appear that any efforts have been made to ascertain what the subjects of the Indian States have got to say about their position under the autocratic rule of the Indian Princes. Your Excellency was pleased to appoint the Indian States Inquiry Committee, but the procedure followed by that Committee does not admit of any free expression of the views of the subjects of Indian States. The Committee declines to supply even the questionnaire issued to Indian Princes. It is superfluous to state here that the interests of the subjects of Indian States are vitally affected by the two terms of refence to the Butler Committee.

The Executive Committee of the All India States' People's Conference therefore is extremely anxious to approach Your Excellency and to place the points of view of the subjects of Indian States before Your Excellency. I therefore request Your Excellency to give permission for a deputation of the Indian States' people to wait upon Your Excellency and to place what the people have got to say for Your Excellency's kind consideration. The deputation is willing to come and wait upon Your Excellency, if your excellency is graciously pleased to receive the deputation even at Simla. I shall therefore deem it a great favour if the pleasure of Your Excellency is communicated to me and if permission is granted for the deputation to wait upon Your Excellency.

I beg to remain,

Your Excellency's most obedient servant.

General Secretary,

All India States' People's Conference.

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No. 5424-A.
Political Department,
Bombay Castle, 21st July 1928.

From

C. W. A. TURNER, ESQUIRE, C. I. E.,
Ag. Chief Sceretary to the Government of Bombay,
Political Department.

To

G. R. ABHYANKAR, ESQUIRE,
GENERAL SECRETARY,
All India States' People's Conference,
Sangli.

Sir,

With reference to your letter dated the 24th June 1928 addressed to His Excellency the Viceroy requesting permission for a deputation of the Indian States' people to wait upon His Excellency to discuss matters affecting the relations of the Ruling Chiefs of India with their subjects, I am directed to inform you under instructions from the Government of India that His Excellency the Viceroy regrets that he is unable to receive the proposed deputation.

I have the honour to be,
Sir,
Your most obedient servant,
C. W. A. TURNER,
Ag. Chief Secretary to the Government
of Bombay, Political Department.

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## APPENDIX A.

# Provision for Joint Consultation.*

———:o:———

The following is the draft outline of the scheme put forward by Sir Leslie Scott for consideration by the meeting of Princes on April 19 last at Bombay :—

This outline is put forward for discussion, criticism, and comment, so that after the Bombay meeting, there may exist an agreed groundwork upon which future constructive proposals may be based. It will be found to explain the proposals tentatively sketched in paragraphs J to M of Document No. 1.

2. The Scheme has been framed with a view to satisfying the following requirements.

(*a*) Effectively protecting the States in the enjoyment of the rights, political and economic, to which they are really entitled ; thus facilitating their efforts to develop their resources and to advance the cause of good and beneficient government.

(*b*) Providing for joint consultation with British India in matters of common concern, with a view to common action, under conditions of reciprocity, with British India, in the interests of India as a whole and of the Empire.

(*c*) Providing for the exercise, under effective safeguards such as are specified in 5 (i) and (ii) below of certain ultimate powers of intervention in the event of gross misgovernment of flagrant injustices.

3. The Scheme contemplates the creation of three new bodies, the Viceroy in Indian States' Council, the Union Council ( that is the Indian States' Council and the Governor General's Council sitting together to settle matters of common-concern) and the Union Supreme Court ; it also contemplates the enlargement of the powers of the present Chamber of Princes : and an improvement of the organization and the functions of the Political Department.

### THE INDIAN STATES' COUNCIL.

4. The Indian States' Council will consist of the Viceroy as President, three representatives of the States ( either Princes or

* Published in the Times of India on 21 May 1928.

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Ministers): two English Members with no previous connection with India: and the Head of the Political Department. It representsa natural development of the Princes' original idea of an advisory Council.

5. The functions of the Indian States' Council are set out in sub clauses (a) to (g) below, and the necessary safeguards, from the standpoint of the States, are enumerated under the appropriate subclause.

(*a*) Safeguarding the interests of the States, and generally transacting, subject to the internal autonomy of the States, the business which arises concerning the States' side of India.

(*b*) Representing the States' side of India on the Union Council which will be competent to take decisions, subject to the safeguards indicated below, in matter of common concern to the States and British India.

SAFEGUARDS :—

(1) The Viceroy and each Member of the Indian States' Council should subscribe to a solemn obligation to protect the interests of the States together with the constitutional rights, powers and dignities of the Princes and Chiefs. The Viceroy may in future take a separate Oath of Office laying this duty upon him, and in the Patent of Appointment of each Member of the Indian States' Council, this obligation should find a place.

AUTHORITY OF COUNCIL.

(ii) The authority of the Indian States' Council to commit the States to arrangements arrived at in the course of negotiations with the Governor-General-in-Council upon matters of common concern will not be unrestricted. The Standing Committee of the Chamber and the Indian States' Council will together work out general principles of policy which will be accepted by the Indian States' Council as a guide to the desires of the States in matters of common concern. Matters not covered by the general principles of policy so settled will require to be referred to the Chamber, whose ratification of any proposed arrangement will be necessary before the authority of the Indian States' Council on behalf of the States becomes effective. The Indian States Council and the Standing Committee should moreover remain in close touch, and joint meetings might be utilised for the purpose of dealing with questions of emergency arising between the sessions of the Chamber.

(iii) Each individual State should have an opportunity, where its interests are particularly affected, to urge before the Indian States' Council its desire on special grounds either.

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(*a*) to modify in its own case a general arrangement settled in Indian States' Council, or in Union Council, or

(*b*) to stand out of this arrangement altogether. The Indian States' Council will come to a decision upon the merits of each case.

(IV) Each individual State will have the right to obtain from the Union Supreme Court a ruling that any particular exercise of powers by the Indian States' Council by the Union Council, or by any Representative of the Paramount Power, is unconstitutional and accordingly invalid.

(V) In order to provide the Indian States' Council with a moral authority corresponding to that which the Legislature may supply to the Governor-General in Council, the functions of the Chamber of Princes will be enlarged and its importance increased (see para 8 below).

(*c*) Advising the Viceroy as to intervention by him in the event of gross misgovernment of flagrant injustice in any State, in which case the constitutional responsibility for intervention will continue to rest upon him personally and exclusively, but subject to the condition that he shall first have consulted with and been advised by the Indian States' Council.

SAFEGUARDS (in addition to the express condition embodied in para (c).

(i) Providing that before intervention takes place, the facts of the case, unless admitted, must be established by a process of investigation to which the Prince or the State concerned shall be a party, enjoying the normal presumption of innocence until the contrary is proved and entitled to know and to meet all the evidence against him or it.

(ii) Providing that before tendering such advice the Indian States' Council shall afford to the Prince or State concerned an opportunity of presenting before the Indian States' Council his or its views or proposals.

(*d*) Directing and Controlling the Political Department. (See para 9 below).

(*e*) Receiving references from the Chamber of Princes ( See para 8 (iii) below) or from any individual State upon matters requiring consideration or action.

(*f*) Referring any matters to the Chamber of Princes for consideration and advice; without limiting the above

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general power, a particular illustration is afforded by subjects personal to the Rulers, such as Ceremonial, dignities and privileges.

(*g*) Referring to the Union Supreme Court such questions of fact or law, or both, as any State or the Chamber of Princes may require to be so referred: or such other matters as the Indian States' Council may consider fit subjects for such reference.

THE UNION COUNCIL..

6. As above stated, the Union Council will be composed of the Viceroy in Indian States' Council and the Governor-General in joint session, presided over by the Viceroy. The functions of the Union Council will be the consideration of and action upon subjects of common concern both to British India and States' India which will include.

(*a*) The Crown's obligations in regard to Defence and Foreign affairs.

(*b*) The promotion of the interests of India as a whole, including necessary adjustment of interests between British India and the Indian States where the interests of the two sides are not identical.

SAFEGUARDS.

(i) No power will be given to the Governor-General's Council to outvote the Indian States' Council.

(ii) If a proposal from British India goes beyond the mandate of the Indian States' Council ( See 5 (b) (ii) above ), it cannot be enforced against any State without that State's specific consent.

(iii) If a proposal discussed in the Union Council does not commend itself to the Indian States' Council, because of its anticipated consequences to the interests of the States, it will fail to receive the assent of the Union Council. Provision to meet such a case of deadlock requires careful consideration. A possible remedy might be found in giving the Viceroy powers of Certification corresponding to those which the Governor-General enjoys in British India.

(iv) See 5 B. (iv) above,

THE SUPREME COUNCIL.

7. The Union Supreme Court represents the logical development of the Princes' original idea of a Court of Arbitration. It will be staffed by a Chief Justice and two other Judges appointed for life on high salaries, selected from the best men in Great Britain.

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Its functions will consist, generally, of providing an impartial tribunal to which constiutional and other justiciable matters in dispute can be referred, subject to appeal to Privy Council, and in particular deciding :

(a) Disputes between the Indian States' Council or a State or States on the one hand, and the Paramount Power on the other as to respective rights and obligations under treaties, agreements, usage, sufferance or otherwise.
(b) Justiciable disputes between States.
(c) Whether any Statute of British India affecting a State or any legislative act of a State affecting British India is *ultra vires.* and therefore of no effect in regard to such State or British India, as the case may be.
(d) Issues of law or fact underlying any political dispute.

SAFEGUARD :—

(i) Where the issue before the Union Supreme Court is in the judgment of the Court a matter of constitutional right no plea of " act of State " will be admissible.

(ii) The Union Supreme Court will have no jurisdiction over the person of a Ruling Prince.

(iii) The Union Supreme Court will have no power to intervene in the judicial machinery of any State. The Union Supreme Court will not be a British Indian Court but a Court created by the Paramount Power and the Princes jointly. It is possible that some States might like to utilise it as their own Court of Appeal conferring on it jurisdiction under rules of Court made by themselves to hear appeals from their own High Courts. Then so sitting, it might be entitled. The Union Supreme Court sitting as Court of Appeal for the State of —

CHAMBER OF PRINCES.

8. In order that the Chamber may not only perform all the functions originally proposed for it ; but also further that it may be made an effective machinery for safeguarding the position and rights of the Princes its power and influence must be increased by :—

(i) Giving it control over its Standing Orders and its Agenda.
(ii) Giving it the right of raising any matter it likes, including with the consent of the State concerned, the affairs of an individual State.

(iii) Giving it the right to refer any matter it likes to the Indian States' Council for consideration and action and the further

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right to pass resolutions upon the action, taken by the Indian States Council.

(iv) Giving it its own Secretariat with its own paid Secretary who will be responsible to the Chamber for the conduct of the Chamber's business, and who will provide a permanent link between the Chamber and the Viceroy through the Secretary of the Indian State's Council.

(v) The Secretary of the Chamber, under the general supervision of the Chancellor and the Standing Committee, will be assisted by Special Committees of Ministers, appointed from time to time by the Standing Committee or the Chamber, either on their own initiative or on the suggestion of the Indian States' Council. These Committees will be summoned by the Secretary of the Chamber upon the direction of the Chancellor whenever necessary.

(vi) Providing in the Chamber's standing orders for Committee Procedure in the Chamber with the Chancellor in the Chair as when the House of Commons goes into Committee and the Speaker leaves the Chair.

(vii) Giving the Chamber some power of final ratification over principles of policy provisionally adopted by the Indian States' Council in matters of common concern, but not already worked out under the procedure suggested in 5 (b) (ii) above. It might also be prudent to apply some similar method of ratification, in matters affecting either the financial interests or the internal sovereignty of the States, even to actual arrangements provisionally agreed to by the Indian States' Council.

(viii) Providing seats in the Chamber for Members of the India States' Council who will have the right to be present at sittings of the Chamber (when not in Committee) but not to vote ; and imposing upon them the duty (a) when called upon by the President of addressing the Chamber upon specified subjects ; and (b) of answering questions addressed to them under Procedure to be laid down in the Standing Orders by any Member of the Chamber.

### POLITICAL DEPARTMENT.

9. The Political Department will be under the control and direction of the Indian States Council. Its future activities will be somewhat modified by the following provisions :—

(i) A limitation will be imposed, by Royal Proclamation or other appropriate means, upon intervention in the affairs of the States (2) (c) above, and the Princes will be encouraged, as well as

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authorised, to bring every transgression of this limit to the notice of the Indian States' Council or the Union Supreme Court according to the nature of the case, from whom the necessary redress can be obtained.

(ii) A new Manual of Instructions to Political Officers will be framed by the Indian States' Council in consultation with the Chamber of Princes, wherein the duties of the Political Officers will be defined. This Manual will not authorise interference with the domestic concerns of the States.

(iii) The existing records of the Political Department will be transferred to the Record Office of the Indian States' Council or its Officers, and will be available to the scrutiny of the Prince or State concerned, when a question arises affecting him or it.

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## APPENDIX B.

At the Conference of ruling princes held in Bombay on 20th April 1928 the Maharaja of Patiala moved the following resolution.

RESOLUTION.

"This meeting of rulers and representatives of States' Governments.

(*a*) Appreciates the wisdom of His Majesty's Government and of the Government of India in providing for an enquiry into the relations of the Indian States with the paramount power and with British India.

(*b*) Recognises that the readjustment of these relations so as to secure the political future of $\frac{1}{5}$th of the human race calls for the highest statesmanship on the part of His Majesty's Government, on the part of the Government and people of British India and on the part of the Indian States.

(*c*) Declares its resolve to devote to the moral and material progress of the subjects of the States, the advantages resulting from the equitable adjustment of fiscal and economic issues.

(*d*) Affirms the intention of the Indian States to join with His Majesty's Government and with the Government and people of British India in working for a solution which shall secure protection for all interests and progress for all India.

(*e*) Reaffirms the abiding determination of the rulers of Indian states as recorded in the last session of the Chamber of Princes, to ensure the rule of law in their states and to promote the welfare and good government of their subjects.

(*f*) Emphasises the dependence of the progress and prosperity of British India and the states alike upon the creation of constitutional means for the adjustment of relations between them.

(*g*) Reaffirms on the one hand the loyalty of the Indian States to the Crown and their attachment to the Empire and on the other hand, their sympathy with the aspirations of British India, which they regard as legitimate."

The resolution was seconded by His Highness the Maharajah of Kashmir and carried unanimously.

A vote of thanks to Sir Leslie Scott was also passed unanimously :—*Associated Press.*

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## APPENDIX C.

# Indian States and Sir Leslie Scott.

———:o:———

The Right Honourable Sir Leslie Scott, P. C., K. C., M. P. has sent the following letter to the Editor of "The Law Quarterly Review" for publication and it has found a place of honour which has appeared in the July issue of the said Quarterly.

"The Editor has pleasure in publishing the following letter from the Right Honourable Sir Leslie Scott, P. C., K. C., M. P.:—

Sir,—You ask me on my return from India what opinions I have formed upon the legal and constitutional problems presented by the relationship between the Indian States on the one hand and the Crown and the Government of British India on the other. This is the first question referred by the Secretary of State to the Indian States Committee, of which Sir Harcourt Butler is Chairman; and as I am, in my capacity of counsel for the Standing Committee of of the Chamber of Princes, to address the Committee in July upon that very subject, it is better that I should reserve my considered reply for your October number. But a note of some of the questions raised may be of use.

The political issues are of first-class importance to the future of India as a whole. Their wise solution will affect directly the successful accomplishment by Sir John Simon and his colleagues of the task imposed by Parliament upon the Statutory Commission for British India. From an Imperial standpoint a statesmanlike treatment of the Princes now, may well prove a vital factor in the future attitude of India towards the British Empire. Consequently the more that public attention is focussed on the position of the Indian States and the more the profession thinks out the legal aspects of it the better.

The relationship between the Crown and the Indian States is unique. There is nothing in the world to-day and there has been nothing in history at all like it. It does not fall within the ambit of international law, for the States are not independent nations and cannot make war and peace. They have entrusted the whole business of their foreign relations and defence to the Crown. As paramount Power the Crown of the United Kingdom has undertaken to protect them, from all dangers, external and internal—to preserve their frontiers, their constitutions and their rulers—and to keep



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available all necessary naval and military forces. In some respects the Crown is the guardian; each State is its ward. To such a relationship international law has no application.

But equally it is outside municipal law. Although sovereignty has been divided as a result of the Princes giving their consent—evidenced by treaty or other form of agreement—to transfer to the Crown some of the functions of their sovereignty, each Prince remains the true sovereign of his State, in respect of all those functions of sovereignty, which he has not consented to transfer to the Crown. And his subjects are not British subjects. He is amenable to no Court outside his State. No legislation of the British Parliament or of the British-Indian Legislature binds him or his subjects; nor can British Indian taxation be imposed upon his State.

To what system of legal principles then are the relations of an Indian State to the Crown referable? There is no legal decision to serve as precedent, no complete analogy to guide. Resort must be had to first principles of law. We must think things out for ourselves. It is almost a virgin field for the lawyer.

However, certain broad propositions emerge pretty clearly :—

(1) The fundamental tie is consent, and its recognition by Britain is unequivocal. The British nation is irrevocably committed by the pronouncements of Kings and Viceroys, to the scrupulous observance of all its contractual undertakings to the Indian States—which occupy one-third of India and contain over seventy millions of people.

One quotation will suffice. King George in 1921 made this proclamation: 'In My former proclamation I repeated the assurance given on many occasions by My Royal predecessors and Myself of My determination ever to maintain unimpaired the privileges, rights and dignities of the Princes of India. The Princes may rest assured that this pledge remains, inviolate and inviolable."

(2) Those contracts are between sovereigns—the Princes and the Crown—not the Company or the Government of British India.

(3) The relationship is wholly legal—a nexus of mutual rights and obligations. It is in no sense arbitrary. Those rights and obligations may not always be easy to define, but they are none the less real and ascertainable because they have not hitherto been scrutinized.

(4) If one were speaking of contracts between private individuals, one would say that the contracts between the Princes and the Crown were personal—incapable of being performed by anyone else,

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The Princes in making them gave their confidence to the British Crown and Nation, and the Crown cannot assign the contracts to any third party. The British Government as Paramount Power has undertaken the defence of all the States, and therefore, to remain in India with whatever military and naval forces may be requisite to enable it to discharge that obligation. It cannot hand over those forces to any other Government—to a foreign Power such as France or Japan; to a Dominion Government such as Canada or Australia nor even to British India.

(5) How far the Crown can delegate to the Government of British India, as its agent, the discharge of its treaty obligations to the States is also matter for consideration. The Crown can normally choose its agents. But an agent cannot act where his interest may conflict with his duty. In all matters of common concern with the States—customs, railway, posts, the salt monoply etc—there is always the possibility that the interests of British India may not be identical with the interests of a particular State. The Crown's duty is, or may be, to safeguard the interests of the States—particularly in case of minority administration, should the interests of the agent be given the chance of conflicting with the duty of the principal?

In all these matters it is essential to get the legal relationship made clear. When that has been done, suitable constitutional machinery for harmonious working between the two sides of India can be devised, and the States have already made it clear that they are ready and willing to fall in with such a plan on reasonable lines.

LESLIE SCOTT,

Goldsmith Building Temple. May 29, 1928.

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## APPENDIX D.

The following is the text of the Chapter in the Nehru Committee's report dealing with the position of Indian States in the Swaraj Government:—

We now come to the all-important problem of the Indian States. At the commencement of our treatment of the subject we desire to enter a caveat against the general criticism which it has become the fashion in certain quarters at present to make against public men in British India that they ignore in their discussions or their schemes the very existence of the Indian States and the problem of their relations to the Government of India of the present or of the future. It is not we maintain emphatically, the fact that the Indian States or their problems, or the readjustment of their relations to the Government of India, have been ignored in the past on public platforms, or in political conferences, or in the utterances of our public men. If the grievance is that the affairs of the Indian States, or the nature and character of their relations with the Government of India, have not been discussed on the floor of the Legislative Assembly, the answer is plain and it is that such discussion is barred by the standing orders and in practice is never allowed. It is obvious that for this the responsibility cannot be fixed on Indian public men. On the other hand, there is scarcely a political organisation of influence in the country which has not had in recent years to say something or other on the problem of the Indian States. The Congress and the Liberal League and the Hindu Sabha and lastly the All-Parties' Conference, to which this Committee owes its existence, have so far from ignoring the problem laid considerable stress on it. The subjects of the Indian States also have been showing a lively interest in the internal affairs of their respective States and urging for a definite recognition of popular rights and liberties. They have held two representative conferences and a committee appointed by the second held at Madras has approved and recommended to us a scheme of Swaraj embracing British India and the Indian States. We shall deal with this scheme later on. We are aware that the sensitiveness of some Indian princes has in recent years been touched by what they consider to be a somewhat obtrusive interest taken in them by public opinion in British India, which they have condemned as either lacking in knowledge, or political sagacity are sympathy. We therefore very strongly repudiate the ill founded charge that intelligent public opinion in British India has been too self-

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centred to look beyond the confines of British India or has shown unwillingness to understand the view point of the Indian princes or their subjects, or even to sympathise with them wherever and whenever it has been possible to extend sympathy. If it has at times been critical of some of the "claims" of the Indian princes, or if it has at times approached their internal problems or tried to envisage the development of the constitutional relations between them and the future self-governing India from a different angle of vision, it is no more than what it is clearly entitled to do. We are afraid that the present tendency to stress the problem of Indian States as presenting insurmountable obstacles in the way of British India achieving Dominion status is full of incalculable mischief for both and instead of helping to bring the "two Indias" closer to each other is likely to give rise to serious misunderstandings.

AFFINITIES BETWEEN BRITISH INDIA AND INDIAN STATES.

While the fact that there is an Indian "India" consisting of these States—some almost as big as if not bigger than some of the countries of Europe—enjoying, in a way 'internal sovereignty', 'autonomy' and 'independence, dignities and status—may be and has to be freely admitted, we think it would be very poor statesmanship and short sighted policy to ignore those obvious historical, religious, sociological and economic affinities which exist between the people of British India and the people of these States. Nor do we think that it is possible to erect artificial geographical barriers between the two. Ideas and opinion travel from one part of India to another much more rapidly than was the case 60 or 70 years ago, and it would be absurd to deal with the problem of Indian States on the assumption that the dynamic forces now in operation in British India can for a very long period of time be expected to spend themselves on the borders of British India. It is inconceivable that the people of the States who are fired by the same ambitions and aspirations as the people of British India, will quietly submit to existing conditions for ever, or that the people of British India, bound by the closest ties of family, race and religion to their brethren on the other side of an imaginary line, will never make common cause with them. In dealing with the problem, therefore, we would much rather base our conclusion upon the community of interests than upon differences of form. This community of interest would clearly point to joint action by the parties concerned as the most natural course to adopt with a view to mutual protection and advancement. Indeed, if there ever was a case for a round table conference at which a perfected understanding could easily be reached it was

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this. With the representatives of the princes, of their people, of the British Government, and of the people of British India assembled at such a conference all difficulties could have been solved with mutual good will. But most of the princes have unfortunately chosen to ignore the two most important parties—their own people and the people of British India—and have asked for or acquiesced in the appointment of the Butler Committee which apart from the absence of necessary parties is precluded by its very terms of reference, as we read them, from dealing with the constitutional issue. This Committee is sitting in camera but such information as is available from published statements leaves no doubt in our minds that an attempt is being made to convert the Indian States into an Indian Ulster by pressing constitutional theories into service.

We have referred in our introduction to the constitutional question raised by Sir Malcolm Hailey in his speech in the Legislative assembly in February, 1934. The same or similar questions have since been raised in other quarters and we now proceed to deal with them.

## THE CONSTITUTIONAL POSITION.

The constitutional position at the present moment notwithstanding some vagueness that may surround it is, by no means difficult to understand. It is claimed that according to true constitutional theory the Indian States are and have been in relation with the Crown whether their treaties were with the East India Company, or the Brtish Crown or whether they have been entered into since 1858 with the Government of India. Now it is obvious that the Crown under the constitution does not mean the King alone. It is a convenient constitutional pharse used to indicate the King-in-Parliament. Before 1858 the East India Company exercised sovereign rights under power delegated by the Crown' and since 1858 those powers have been exercised under delegated authority by the Government of India and the Secretary of State, who is an intergal part of the machinery established by Parliament for the Government of India. Section 67 of the Act 1858 provided that ' all treaties made by the said Company shall be binding on Her Majesty ' and similarly section 132 of the Act now in force provides that " all treaties made by the East India Company so far as they are in force at the commencement of this Act are binding on His Majesty ". In point of fact the enforcement of those treaties, the fulfilment of the obligations created by those treaties, and the interpretation of those treaties have hitherto been among the normal functions and duties of the Government

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of India, subject to a so called 'appellate' or supervisory jurisdiction of the Secretary of State for India. It is inconceivable that any Indian Prince could under the present constitution ignore the Government of India or the Secretary of State and take up any matter relating to such obligations to the King or to His Majesty's Government. Again, the fact is that the Government of India have acquired certain powers by mere practice usage or convention which are outside the scope of the written treaties. The Foreign Jurisdiction Act of 1890 and the Indian Foreign Jurisdiction Act XXI of 1870 have not unoften been resorted to by the Government of India for the extension of their jurisdiction.

RESOLUTION OF GOVERNMENT OF INDIA.

By the resolution dated 29th of October 1920. the Government of India have given effect to the recommendations contained in paragraph 309 of the report on Indian Constitutional Reforms which prescribed a procedure for dealing with cases in which "the question arises of depriving a ruler of an important State, temporarily or permanently, of any of the rights, dignities, powers or privileges to which he, as a ruler, is entitled, or debarring from succession the heir apparent or any other member of the family of such ruler who according to the law and custom of his State is entitled to succeed".

In his letter dated the 27th March, 1926, Lord Reading emphasised the constitutional position as follows:—(a) The sovereignty of the British Crown is supreme in India, and therefore no ruler of an Indian State can justifiably claim to negotiate with the British Governmrnt on an equal footing. Its supremacy is not based only upon treaties and engagements but exists independently of them and quite apart from its prerogative in matters relating to foreign powers and policies, it is the right and duty of the British Government, while scrupulously respecting all treaties and engagements, to preserve good order throughout India. (b) The right of the British Government to intervene in the internal affairs of the Indian States, is another instance of the consequences necessarily involved in the supremacy of the Britlsh Crown. (c) The varying degrees of internal sovereignty which the rulers enjoy are all subject to the exercise by the paramount power of this responsibility.

It is a matter of common knowledge that the exercise of these large powers, or to be more accurate, the decision of the Government of India to exercise these powers in the case of some Princes in recent years has been the subject of much comment and dissatisfaction and the exposition of the constitutional position in Lord Read-

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ing's letter to His Exalted Highness the Nizam, from which we have quoted, above has led since to much searching of heart. It is not our intention or purpose to discuss the merits of the claim put forward in that letter. We simply desire to draw attention to it to show that even these large powers can only be exercised at the discretion upon the initiative, and by the machinery of the Government of India.

### The Plain Fact.

By usage or convention, or as a necessary corollary to the paramountcy of British Power, the Government of India have claimed and exercised the right of (a) "installing" Princes on the *gaddis*, (b) administering the States during the minority of the ruler, and their (e) settling disputes between rulers *jagirdars* and (d) interfering in cases of gross misrule. With any legitimate desire on the part of the Indian Princes to get their grievances in these respects remedied, it is possible, even for democratic India to sympathise; and we feel that it is by no means impossible or impracticable to define the limits within which the Government of India, as it is constituted at present, or as it may be in future, may seek to interfere. We think however that the plain fact ought not to be overlooked that the Government of India as a dominion will be as much the King's Government, as the present Government of India is, and that there is no constitutional objection to the dominion government of India stepping into the shoes of the present Government in India.

If there are personal ties of allegiance or devotion which bind the Indian Princes to the throne, person or dynasty of the King, they cannot and ought not to suffer in strength by a change or modification in the composition of the King's government in India, when India attains Dominion Status. There will always be plenty of room for the discharge of those duties to the Crown and for the exercise on the part of the Crown of those prerogatives which may be insaparable from the personal relation that has subsisted between the Crown and the Indian rulers.

### Sir Leslie Scott's Proposition.

We shall now turn to the latest contribution on the subject. It comes from no less distinguished an authority than Sir Leslie Scott, the learned counsel engaged by the Princes. Sir Leslie Scott has expressed his views in a letter which has been printed in the July number of the "Law Quarterly Review." We recognise his eminence as a lawyer, but we cannot help feeling that his views as

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counsel for the Indian Princes have yet to be tested by an independent judicial or legal authority after having both sides of the question presented to it. So far as we are concerned we beg to differ from him entirely. After laying down that the relationship between the Crown and the Indian States cannot be governed either by international or municipal law, Sir Leslie Scott asks 'To what system of legal principles then are the relations of an Indian State to the Crown referable ! There is no legal decision to serve as precedent, no complete analogy to guide. Resort must be had to first principles of law. We must think things out for ourselves. It is almost a virgin field for the lawyer. Even if it is a virgin field for lawyer and we venture to say this is not quite correct, we think it is more a case for the constructive statesman than for the analytical lawyer. Sir Leslie Scott has in this letter stated five definite propositions. Some of which may be admitted to be correct, others of which strike us as being too broadly put. In any case the conclusion which is sought to be drawn from these propositions is of such far-reaching consequence that it may be taken as definitely certain that if the Indian Princes decide to take their stand upon the position so ingeniously argued out for them, British India must substantially discount their profession of sympathy with its aspirations to Dominion Status, and treat their reference to the federation of India as no more than a vision, the realisation of which must be left to a remote but uncertain future. The first proposition of Sir Leslie Scott is that the fundamental tie is consent and its recognition by Britain is unequivocal.' This may be admitted to be true. It implies nothing more than what can be said of any two states bound together by treaties or mutual understandings.

The second proposition formulated by him is that "those contracts are betweeen sovereigns—the Princes and the Crown—not the Company or the Government of British India." This proposition to our mind is untenable historically and legally, and in any case, whatever may be the true legal theory, actual practice shows that the Indian Princes and States have dealt with the Government of India and submitted to its rulings and decisions and intervention, and have never dealt with 'the Crown.' or His Majesty's government. The fact that there may be personal relationship between His Majesty and an Indian Prince does not in our opinion alter or affect the real legal position or the interpretation of that legal position in actual practice.

The third proposition is "that the relationship is wholly legal—a nexus of mutual rights and obligations. It is in no sense arbitra-



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ry." We should have thought that one of the main grievances of the Indian Princes was that the Government of India had in actual practice extended their jurisdiction over them by going beyond the legal relationship in an arbitrary manner. If they are protesting against 'the arbitrary' extension of such jurisdiction, it is in our opinion an understandable position, but it is somewhat remarkable that importance of this proposition in the setting in which it is stated lies not so much in its practical application in the present, as in relation to possible constitutional developments in British India.

The fourth proposition is that the princes in making these contracts gave their confidence to the British Crown and nation; and the Crown cannot assign the contracts to any third party. The British Government as paramount power has undertaken the defence of all the States, and "therefore to remain in India with whatever military and naval forces may be requisite to enable it to discharge that obligation." It cannot hand over these forces to any other Government—to a foreign power such as France or Japan, to a Dominion Government such as Canada or Australia; *nor even to British India* ("italics, our")

## BARRIER AGAINST PROGRESS.

The necessary corollary to this is stated in the fifth proposition viz. that "The Crown can normally choose its agents. But an agent cannot act when his interest may conflict with his duty. In all matters of common concern with the State—customs, railways, Ports, the salt monopoly, etc—there is always the possibility that the interest of British India may not be identical with the interest of a particular State. The Crown's duty is, or may be, to safeguard the interest of the State particularly in case of a minority administration. Should the interest of the agent be given the chance of conflicting with the duty of the principal"? This if true is putting up an effective barrier against the progress of British India towards dominion status, now and for ever, for it is obvious that of these 'contracts' between the Indian princes and the British Crown and nation are of a personal character. India must always continue to be divided between what is British India and Indian States, and the British Nation must always maintain adequate military and naval forces to discharge its obligations to Indian States. The argument we venture to say does not appear to us as anything more than ingenious. It starts on a false analogy and in applying that analogy ignores the "hard facts" of the case. There is no ground for the assumption that "contracts between the princes and the Crown" are on the same footing as contracts between private individuals. Sir Leslie Scott has himself pointed out in an earlier

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part of his letter that the princes continued to retain the attributes of sovereignty even after parting with some of its functions to the Crown. It is as such sovereign that they must be taken to have dealt with another sovereign whether we take the latter to be the East India Company or the King in Parliament. Again it is not true to say that every contract between private individuals is of such a personal character as to be incapable of being performed by any one else. There is no question of one of the contracting parties having any special confidence in the other. The so-called contracts were made under stress of circumstances and would have been of the same or of similar character with any other power which occupied the same position as the British. The argument ignores the settled practice of the Government of India and by invoking so called first principles in determining the "legal relationship" it overlooks the hard and unchallengeable fact that from the early days of the Company it has been the Government of India and the Government of India alone which dealt with Indian princes and Indian States.

### On What Principle of Law.

It introduces an element of "personal confidence" between them and the British nation which is not easy to understand. It suggests that the past and present governments of India which have so far exercised the power, said to be delegated from the Crown, were and are acceptable to the Indian princes and Indian states; but that the future Government of India, if it is to be of the dominion type, will not be so acceptable. This in plain English means that the past and present governments of India were acceptable because they were essentially foreign in their composition and not responsible to the Indian electorate and that the future responsible Government of India would not be acceptable to the Indian princes because it will consist of their own countrymen and because it will be responsible to an electorate of their own countrymen. But supposing that this is so is there any authority for the proposition that when a "contract" may be performed by an agent, the choice of that agent does not rest with the principal but with the other party to the "contract." We have shown that so far the "contract" has been performed by white agents to the apparent satisfaction of the brown princes. On what principle of law, we ask, may that "contract" not be performed by brown agents to the equal if not greater satisfaction of the brown princes?

### A Note of Warning.

Let us now consider the argument that the principal cannot delegate to the agent the discharge of obligations where the agent's interests conflicted with his duty. Here again we find that the hard

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facts have been entirely ignored. The argument overlooks the fact that the agent of the crown viz., the present Government of India, has been regularly acting when its interest has conflicted with its duty without any qualms of conscience on the part either of the principal or of the agent and without any public protest on the part of the Indian States. Sir Leslie Scott then says that when "the legal relationship" has been "made clear"—that is to say according to his own conception of that relationship—suitable constitutional machinery for harmonious working between the two sides of India can be devised. And the States have already made it clear that they are ready and willing to follow such a plan on reasonable lines." In other words if Sir Leslie Scott's theory of personal relationship and personal confidence and the consequent duty of the paramount Power remaining in India to discharge its obligations is accepted the princes would be ready and willing to fall in with British India on reasonable lines Once this argument is accepted as sound it is obvious that whatever be the machinery devised for harmonious working between the Indian States and British India dominion status for India must be ruled out for all time to come. We have shown that this argument is wholly unsound and we sincerely hope that legal ingenuity will not be allowed to prevail against the larger interests of the country, and that the patriotism and statesmanship of the Indian princes, aided by the growing patriotism and love of freedom among their subjects, will be concentrated more upon the establishment of genuine machinery for the settlement of issues between them and a responsible Commonwealth of India than upon a determination of the theoretical question of legal relationship which can do them no good and is fraught with mischievous possibilities which can only lead to disaster. Mutual relations can only be satisfactorily determined with mutual consent and we believe that there is still plenty of room for it. But we must sound a note of warning that the natural and the legitimate aspirations of India cannot and will not be allowed to be defeated or check-mated by ingenions arguments which have no application to facts as they are.

### Important Political Issues.

We take special note of the following passage in Sir Leslie Scott's letter :—

"The political issues are of first-class importance to the future of India as a whole. Their wise solution will affect directly the successful accomplishment by Sir John Simon and his colleagues of the task imposed by Parliament upon the Statutory Commission for British India. From an Imperial standpoint a statesmanlike treat-

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ment of the Princes now may well prove a vital factor in the future attitude of India towards the British Empire."

So that the findings of the Butler Committee arrived at in camera are to decide the fate of the people of British India without the latter being given a chance to be heard, and Sir John Simon and his colleagues who are themselves not seized of these "political issues of first-class importance" are to be guided by their "wise solution" by the Butler Committee if they are to accomplish successfully the task imposed by Parliament upon them. This was foreseen in India and openly declared from various platforms. We know now exactly what the Statutory Commission is going to accomplish. The only wise solution of these issues suggested by Sir Leslie Scott is that the Brish Government must "remain in India with whatever military and naval forces may be requisite to enable it to discharge its obligations." We thank Sir Leslie Scott for this authoritative forecast of the recommendations of the Statutory Commission which fully justifies the attitude taken in regard to it by all the well-known parties in India.

POSITION AS IT IS.

Leaving aside the theory of the relationship between the Crown and the Indian princes and coming to the position as it is, we maintain that we are right in saying that as a matter of fact and actual practice, it is with the Government of India that the Indian princes come into direct contact in regard to everything that concerns them or their States. It is well known that the political secretary of the Government of India exercises vast powers over the Indian States. Without being a member of the Government of India, he practically discharges all the functions of a member, for there is no separate member in charge of the political portfolio, the political department being supposed to be in the direct charge of the Governor-General. The present position is that if the political department gives any decision against an Indian State or an Indian ruler, the only remedy available against it is 'an appeal, under certain conditions and subject to certain limitations, to the Secretary of State. We are aware that in the present circumstances this is supposed to be a valued right, but this is obviously due to the very unsatisfactory procedure followed in the first instance in India. It is obvious that a right of appeal in a case which is not fairly tried is of little value and we think that it is possible to replace it by adequate constitutional provisions for the future.

INEQUITABLE TREATMENT.

In ordinary experience, the matters in regard to which the Indian States come into contact or conflict with the Government of India

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are those relating to customs, excise, extradition, railways, post offices and ports or harbours. In addition to this, there is the bigger common interest of self-defence. It is not necessary for us to examine what are understood to be the grievances of the Indian States in regard to these matters. We simply note the fact that responsible Indian rulers and ministers of Indian States, have, at times, raised their voice against what they have described to be the inequitable treatment which they received at the hands of the Government of India. How far those grievances are capable of being remedied, and how best they can be remedied, are matters for investigation and joint consultation, but we venture to think that their solution is not inextricably mixed up with the continuance of the present constitution of the Government of India, or the establishment of an entirely separate and independent machinery for the exclusive treatment of these subjects. If we refrain from going into this question at greater length, it is only because the public have not hitherto been permitted to know enough of the scheme which has been in the course of incubation during the last few months. But if it is permissible to us to draw our own inferences from such statements as have been made in this connection by Sir Leslie Scott, the Counsel for the Indian Princes before his departure for England, we shall sound a note of warning against the attempt that is being made to duplicate the machinery, by bringing into existence a separate Council for the Indian States to work with the Governor-General. Apart from the fact that it will be a cumbersome thing, its separate existence cannot secure solution of matters of conflict with British India or with the future Commonwealth government. It strikes us as being a vicious extension of the system of diarchy with all its attendant incongruities, inconveniences, and constitutional difficulties.

A federation of some sort was foreshadowed by Sir Malcolm Hailey, in the speech to which we have already referred, and there is no doubt that some such idea is also present to the mind of Sir Leslie Scott. But if the constitution of India is to be a federal one, as we think it might well be, the position of the Indian States in relation to that federation appears to us to call for a definite determination and the ideas, on the subject, require to be cleared up. Are the Indian States willing and ready to join a real federation. We put this question as we believe that the lines on which the princes and Sir Leslie Scott are working cannot lead to any kind of federation in its well understood sense. 'A federal state,' says professor Newton, 'is a perpetual union of several sovereign states, federal constitution accepted by their states, or upon some historical status common to them all and secondly, upon a federal constitution accepted by their

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citizens. The central government acts not only upon the associated states but also directly upon their citizens. Both the internal and external sovereignty of the state is impaired and the federal union in most cases alone enters into international relations. It would be in our opinion, a most one sided arrangement if the Indian States desire to join the federation, so as to influence by their votes and otherwise, the policy and legislation of the Indian Legislature, without submitting themselves to common legislation passed by it. It would be a travesty of the federal idea. If the Indian States would be willing to join such a federation after realizing the full implications of the federal idea we shall heartily welcome their decision and do all that lies in our power to secure to them the full enjoyment of their rights and privileges. But it must be clearly borne in mind that it would necessitate, perhaps in varying degrees, a modification of the system of government and administration prevailing within their territories. We hope and trust that in the light of experience gained the Indian States may make up their mind to join formally the federation. Meanwhile, we think that it is by no means impracticable to provide suitable machinery for the settlement of mutual differences on administrative and other matter. The practical question of the preservation of their treaty rights and such independence as they have enjoyed or as they claim, is, in our opinion, far more important than the arid and academic discussion of the question, whether in theory their relations are with the Government of India or with the Crown.

OUR RECOMMENDATIONS.

Accordingly, we have provided (a) all treaties made between East India Company and the Indian States and all such subsequent treaties, so for as they are in force at the commencement of this Act, shall be binding on the Commonwealth. (b) The Commonwealth shall exercise the same rights in relation to and discharge the same obligations towards the Indian States as the Government of India exercised and discharged previous to the passing of this Act." We have made these suggestions in no spirit of vanity or idealism. We fully realise their implications and the obligations that such provisions will impose upon the future Government of India. We do believe that the Government of India of the future will discharge their obligations in their intergrity and with every desire to promote harmonious relation and with no desire to override cherished privileges, or sentiments. Similarly, in regard to matters of a justiciable character, we haee suggested that in case of difference between the Commonwealth and an Indian State on any matter arising out of treaties, engagements, sanads or similar

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other documents, the Governor-General in Council may, with the consent of the State concerned, refer the said matter to the Supreme Court for its decision.' We think that this will be a far better method of settling such matters than the present arrangement under which the Government of India is both a party and a judge in a controversy between itself and an Indian State. We need scarcely point out that we anticipate that the judges of the Supreme Court will be men of the highest legal training character and judicial independence.

In regard to non-justiciable matters involving financial and administrative relations, it should not be difficult to come to a settlement by mutual conferences and understandings. The position, in the future, will not to our mind, be worse than it is. Indeed it is likely to be better, where between different States, there are honest differences and an independent effort is made to arrive at just and equitable settlements. Practical good-will and larger common interest are of far greater value than any meticulous considerations of ultimate sanctions. It is obvious to our mind, that the question of common defence is one which is bound to be in future the rallying centre of the Government of India and the Indian States, and if it has been possible in the past to sustain common obligations and to keep alive a common sense of duty to the country at large, we do not dispair of the future.

In making these observations we feel that we have not had the advantage of discussion with the representatives of the Indian princes, and we are alive to the possibility of much greater light being thrown on some dark corners of the entire problem by such discussion. Meanwhitle, we content ourselves by saying that while we recognise that an Indian federation, compatible as it will be with the maximum degree of autonomy in the local units, whether provinces or States, can be the only solid foundation for responsible government, we are not prepared to concede that until Indian States have made up their minds to join this federation in the most formal manner, that British India must be denied full responsible government or dominion status, merely because it is supposed that the obligations which the Crown or the present Government of India owe to the Indian States, can be discharged only by a central government which is, and must for that reason continue to be undemocratic. Such an argument can only mean that the Indian States, while professing their sympathy with progress in British India, must effectually defeat our aims and aspirations by an attitude based not on enlightened self-interest, but on practical hostility to our aims and aspirations.

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on 16 November, 2018